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*Central Intelligence Agency
Inspector General*

REPORT OF INVESTIGATION



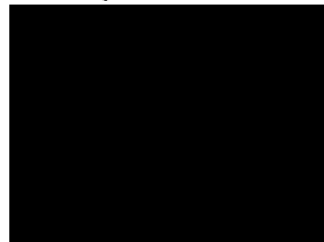
GUATEMALA: VOLUME V
EFRAIN BAMACA VELASQUEZ
(95-0024-IG)

July 15, 1995

*Frederick P. Hitz
Inspector General*

*A. R. Cinquegrana
Deputy Inspector General
for Investigations*

Investigators:



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OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS STAFF

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INTRODUCTION

1. In a March 22, 1995 letter to President Clinton that was simultaneously released to the New York Times, Representative Robert Torricelli (D-N. J.) alleged that the Central Intelligence Agency (CIA) was involved in the "murders in Guatemala in the early 1990's" of U.S. citizen Michael DeVine and Guatemalan insurgent Efrain Bamaca Velasquez. He further alleged that these two individuals "were murdered under the direction of Colonel Julio Roberto Alpirez, a Guatemalan intelligence officer [who] was under a contract with the CIA and remained on its payroll at the time of the murders." Torricelli reportedly told Bamaca's American wife, Jennifer Harbury, that Bamaca was killed about four months after being wounded in a March 1992 encounter with Guatemalan Government forces and that Alpirez was responsible for his death.

2. On March 30, 1995, the President directed the Intelligence Oversight Board (IOB) to conduct a government-wide review of all

allegations surrounding the DeVine-killing and the disappearance of Bamaca as well as any related matters. Shortly before this, an investigation that had been initiated by the CIA's Inspector General in January 1995 at the request of then-Acting Director of Central Intelligence Admiral William Studeman regarding the relationship between the CIA and Colonel Alpirez was broadened to include questions regarding the Bamaca and DeVine cases that were raised by the Senate Select Committee on Intelligence (SSCI) and the IOB, as well as other issues that were raised during the public debate that followed Representative Torricelli's allegations.

3. This Report concerns the Bamaca matter, the information that the Agency received both before and after his disappearance and whether or not that information was handled properly. It deals, among other things, with questions regarding what information was available to CIA on Bamaca and when; whether the Agency met its responsibility for the collection and dissemination of intelligence pertaining to Bamaca; what information CIA had linking Alpirez to Bamaca; whether there is any evidence that CIA employees or assets¹ were directly or indirectly involved in Bamaca's fate; and, whether information regarding Bamaca's fate was properly shared with the congressional intelligence oversight committees.

BACKGROUND

4. Efraim Bamaca Velasquez, who was also known in Guatemala as Comandante or Commander Everardo, was reported to be one of the leaders of the Organization of People in Arms (ORPA)—one of four Guatemalan leftist groups fighting against the Guatemalan Government. Bamaca was first reported missing in mid-March 1992 when his guerrilla unit and Guatemalan Army forces engaged in a firefight in western Guatemala. According to press reports, the Army announced at the time that Bamaca was wounded

¹ [REDACTED]

in combat, then killed himself with a gunshot to the mouth to avoid capture. This account apparently went unchallenged until February 1993, when Santiago Cabrera Lopez, a member of the Guatemalan National Revolutionary Union (URNG) who had escaped from a military base after being detained for nearly a year, testified before the United Nations (U. N.) Human Rights Commission in Geneva that he saw Bamaca at an Army base the day he disappeared. Then, in October 1994, Cabrera delivered a more detailed statement, in which he said he saw Bamaca chained to his bed, his body swollen, and his right arm and leg entirely covered with bandages.

5. According to press reports, Bamaca was a Guatemalan Mayan Indian who rose to the top ranks of ORPA. ORPA is one of four guerrilla groups that forms the larger URNG. Bamaca was reportedly the leader of the Popular Campesino Resistance (RPC) forces that were integrated into the Luis Ixmata Front of ORPA.

6. Jennifer Harbury, a United States citizen, reportedly first met Bamaca during a visit to his guerrilla camp in 1990 when she was working on a book about women in the Guatemalan rebel army. She has said that she and Bamaca were married in Texas on September 25, 1991. A declaration and registration of marriage was filed on June 22, 1993, nearly two years after the date she identifies for the marriage and over one year after Bamaca's March 1992 disappearance. (Materials relating to the marriage claim are included in Exhibit A to this Volume.)

7. According to press reports, Harbury was determined to obtain definitive information concerning Bamaca's fate after his disappearance. She met repeatedly with both U.S. and Guatemalan officials, and staged three hunger strikes--the first in September 1993 in Guatemala City, the second in October-November 1994 in Guatemala City, and the third in Washington, D. C., in March 1995. Although U.S. officials have told her on several occasions that they believe her husband is dead, press reports indicate that Harbury believes information is being withheld from her. She concluded the March 1995 hunger strike, according to the media, after Congressman Torricelli's allegations revealed that Bamaca was killed

about four months after being wounded in the March 1992 encounter with Guatemalan Government forces on the orders of Alpirez who "was under contract with the CIA and remained on its payroll at the time of the murder...."

PROCEDURES AND RESOURCES

8. An OIG investigation [REDACTED] initially involved two investigators from the Investigations Staff of CIA's Office of Inspector General. By early April 1995 the overall investigative team had been expanded to 17 because of additional tasking from Congress, the President's Intelligence Oversight Board, and the Acting DCI. Five of these investigators were actively involved in this Bamaca phase of the investigation. These investigators reviewed relevant files in the Latin America (LA) Division, [REDACTED] Information Management Staff (IMS), Counterintelligence Center (CIC) of the Directorate of Operations (DO), in the Office of Congressional Affairs (OCA) and the Office of General Counsel (OGC). Knowledgeable members of the components were interviewed, including former and current Chiefs and Deputy Chiefs of Station at Guatemala City Station. See Volume I of this Report for additional details regarding the procedures and resources involved, and the scope of the entire investigation.

QUESTIONS PRESENTED

9. The following questions are addressed in this Report:
- ♦ What are the organization, mission, goals, and activities of ORPA?
 - ♦ What information was available to the CIA before March 1992 concerning Bamaca? How was that

information handled? How reliable were the CIA assets from whom the information was acquired?

- ◆ What information was available to the CIA between March 1992 and the end of January 1995 concerning Bamaca? How was that information handled? How reliable were the CIA assets from whom the information was acquired?
- ◆ What information was available to the CIA between February 1995 and May 18, 1995 concerning Bamaca? How was that information handled? How reliable were the CIA assets from whom the information was acquired?
- ◆ What do CIA personnel recall regarding reporting on Bamaca?
- ◆ What information did CIA have linking Alpirez to Bamaca?
- ◆ Did the CIA meet its responsibility for collection of intelligence pertaining to the Bamaca matter?
- ◆ Is there any evidence that CIA employees or assets were directly or indirectly involved in Bamaca's fate?
- ◆ Was information regarding Bamaca's fate properly shared with the congressional oversight committees? Did the CIA meet its responsibility for congressional notification in the Bamaca matter?
- ◆ Was information regarding Bamaca's fate properly shared with Ambassadors and other appropriate Embassy officials? Did CIA meet its responsibility for such notification in the Bamaca matter?

- ♦ Why did the Agency not provide information it collected regarding Bamaca's fate to Bamaca's American wife?

FINDINGS

WHAT ARE THE ORGANIZATION, MISSION, GOALS AND ACTIVITIES OF ORPA?

10. According to the Agency's Guatemala City Station and press reports, the ORPA is one of four leftist groups under the umbrella of the larger URNG organization. The three other groups that form the URNG include the Rebel Armed Forces, the Guerrilla Army of the Poor (EGP), and the Guatemalan Workers Party--the official Guatemalan Communist Party.

11. In the past, the URNG reportedly has attempted to increase the scale of its guerrilla warfare activities in both the capital and the rural areas of Guatemala to force the government to recognize a "state of internal war." The URNG reportedly has used international pressure to force the Guatemalan Government to focus on human rights issues, and has planned strikes, demonstrations and other public forms of protest to bring attention to its cause.

12. The leader of the ORPA is Rodrigo Asturias, who is known by his nom de guerre, Gaspar Ilom. Under Asturias, all ORPA activity reportedly is concentrated along International, Political and Military Lines. The International Line's objective is to gain political and financial support for ORPA as well as to generate pressure on the Guatemalan Government in the human rights area. The Political Line is responsible for propaganda and the mass media and works with guerrilla front groups and other collaborating groups in Guatemala. The Military Line includes international support networks in other countries and combatant fronts inside Guatemala.

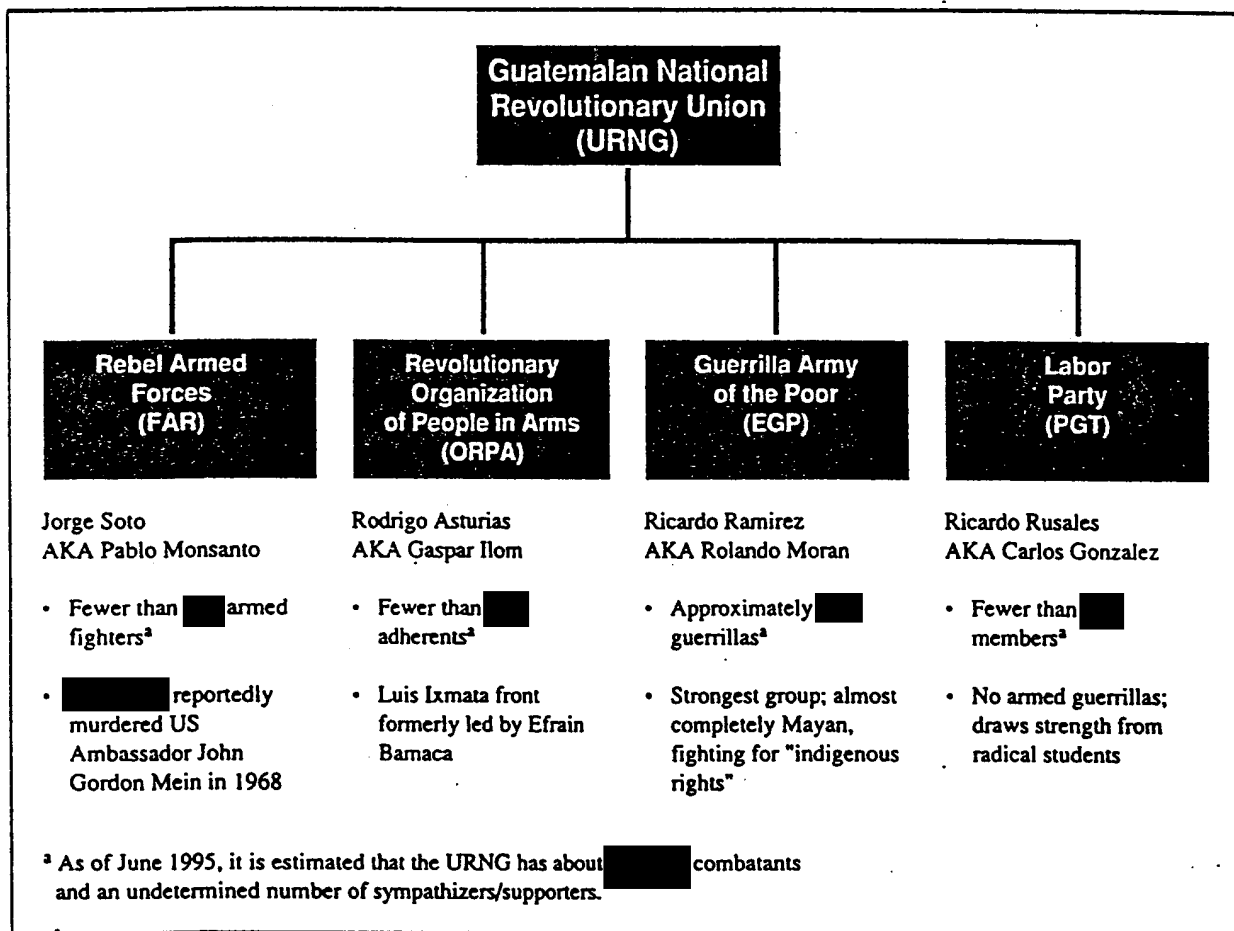
13. At one time, ORPA consisted of two active guerrilla fronts--the Luis Ixmata Front and the Javier Tambriz Front. The Luis Ixmata Front operated in the western sector of Guatemala (San Marcos and Quetzaltenango Departments) while the Javier Tambriz Front was active in southwestern Guatemala in six areas close to Guatemala City. By 1993, the Guatemalan Army believed it had nearly neutralized the Javier Tambriz Front. Bamaca was said to be the leader of the Popular Campesino Resistance (RPC) group, which was part of the Luis Ixmata Front.

14. ORPA, which is believed to field less than [REDACTED] combatants, maintains an extensive international support network. The group's activity includes propaganda, logistical support, political activity, fund-raising, and medical treatment for wounded guerrillas. ORPA international operations are said to be handled in Mexico--its most important foreign base. However, many activities are also carried out in Nicaragua and Europe. ORPA propaganda has been published by a number of news agencies and magazines in Europe, Central America, and North America.

15. Many ORPA guerrilla leaders have received training in Cuba and Nicaragua and many have more than ten years of guerrilla warfare experience. Many of the guerrillas are native to the areas in which they operate. They have developed a complete program of small arms military tactics and physical training, ensuring that all combatants are well prepared for combat. The Guatemalan military considers the ORPA guerrillas to be experts in the use of mines and booby traps.

16. ORPA activity in the past has included assassinations, harassment of military posts, armed encounters with Guatemalan military troops, propaganda, roadblocks, ambushes, sabotage, robberies, and kidnappings. Despite the high level of military efficiency reached by the ORPA guerrillas, they reportedly have limited their potential by operating for several years in the same, relatively small areas.

Guatemala National Revolutionary Union (URNG)



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WHAT INFORMATION WAS AVAILABLE TO THE CIA BEFORE MARCH 1992 CONCERNING BAMACA? HOW WAS THAT INFORMATION HANDLED? HOW RELIABLE WERE THE CIA ASSETS FROM WHOM THE INFORMATION WAS ACQUIRED?

17. [REDACTED] intelligence reports [REDACTED] have been found that refer to a Commander Everardo and his role in the ORPA guerrilla group prior to March 1992. In only one of these reports is Commander Everardo referred to by his true name of Efrain Bamaca Velasquez. In summary, the [REDACTED] reports [REDACTED] discuss Commander Everardo's leadership position in ORPA, his participation in guerrilla activities, his teaching at a guerrilla training school, a military counterinsurgency sweep against his guerrilla front, his position in ORPA and the Luis Ixmata Battalion, the Guatemalan [REDACTED] interception of material destined for him, and his leadership position in the RPC. [REDACTED]
[REDACTED]
[REDACTED]

18. February 28, 1983 Intelligence Report. [REDACTED]
Commander Everardo was identified as a key leader of the Second Front of ORPA. [REDACTED]
[REDACTED]
[REDACTED] had issued an analysis of the status of ORPA in January 1983. The analysis, [REDACTED]
[REDACTED] concluded that ORPA was the most threatening insurgent group operating against the Guatemalan Government. The analysis provided ORPA's priority objective, which was to broaden its organization and military effort. It outlined the strength and key personnel in each ORPA front and provided conclusions and recommendations for meeting the ORPA threat. The report was disseminated [REDACTED] on March 1, 1983 to:

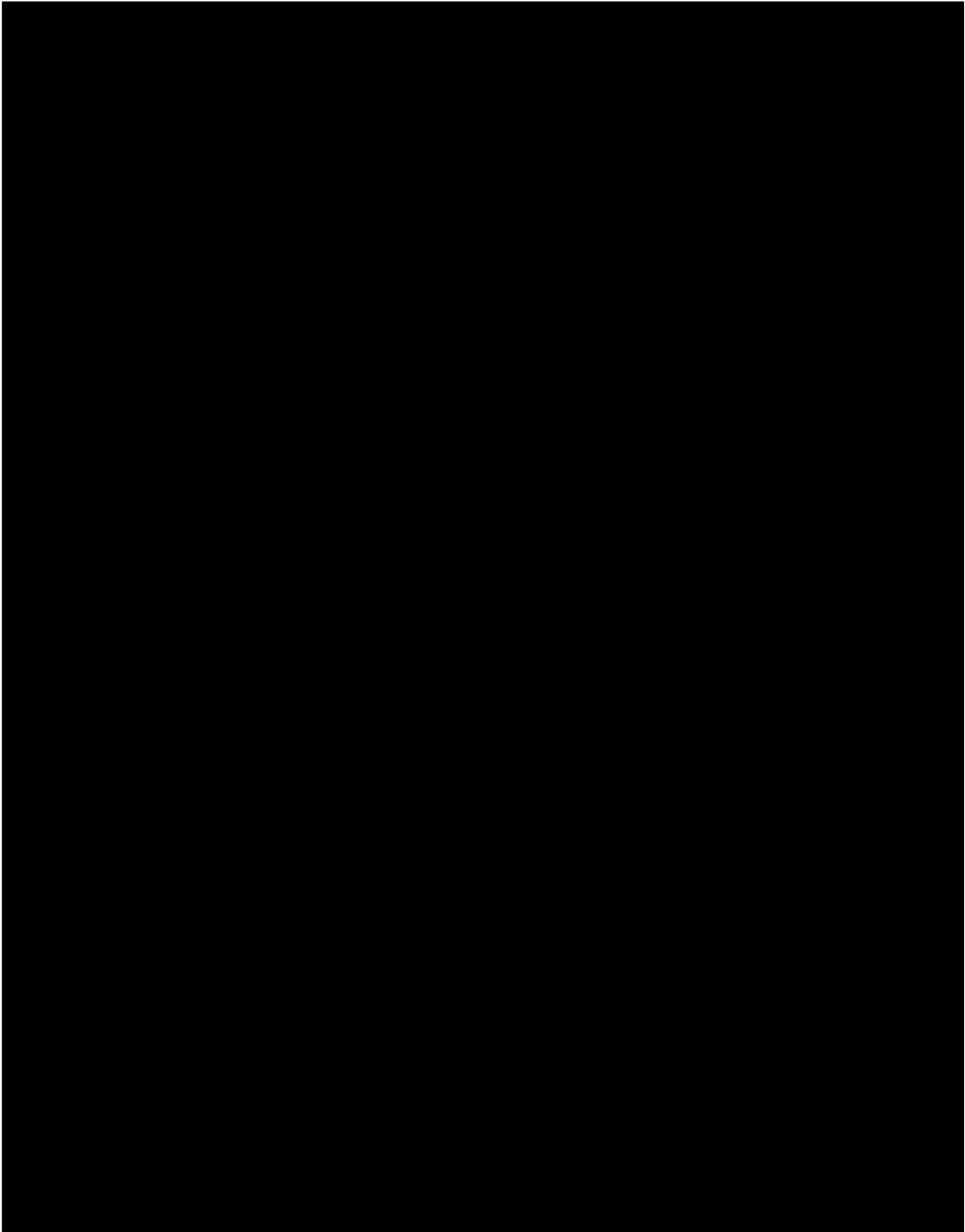
U.S. Embassy, Guatemala;
White House Situation Room;
Department of State (State);

National Security Agency (NSA);
Defense Intelligence Agency (DIA);
Department of the Treasury (Treasury);
Secret Service;
Federal Bureau of Investigation (FBI);
National Security Council Staff (NSC);
Commander, Joint Special Operations Center (COMJSOC); and
U.S. Commander In Chief, Southern Command (USCINCSO).

19. February 14, 1985 Intelligence Report. [REDACTED]

[REDACTED] noted an increase in insurgent activity against farms in the Atitlan Volcano area. [REDACTED] spoke of a recent attack by a group of 40 ORPA guerrillas headed by Commander Everardo who burned the dairy at an area farm. Everardo was said to have told [REDACTED] ORPA intended to punish farm owners who cooperated with the Guatemalan Army by destroying their farm production capacity. Everardo, [REDACTED] directed his guerrillas to kill the cows. The report was disseminated [REDACTED] on February 14, 1985 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, Bureau of Intelligence and Research (INR);
NSA;
DIA;
Treasury;
USCINCSO;
FBI; and
NSC.



20. June 6, 1985 Intelligence Report. [REDACTED] stated

[REDACTED] Guatemalan
[REDACTED] forces raided a guerrilla camp and discovered [REDACTED]
[REDACTED] important information regarding ORPA's Javier Tambriz
insurgent company. Commander Everardo was mentioned as an
instructor at an ORPA military training school where the guerrillas
received instruction in military strategy. [REDACTED] the
guerrilla group attached particular importance to gaining control of
several areas of the countryside. The group reportedly was
composed of approximately 80 men armed with light weapons,
received logistical support from an infrastructure in the surrounding
countryside and conducted propaganda and military training in
preparation for an armed revolution. The report was disseminated
[REDACTED] on June 6, 1985 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
NSC.

21. June 13, 1985 Intelligence Report. [REDACTED]

[REDACTED]
[REDACTED] Everardo was mentioned as leading an
ORPA front containing about 25 armed combatants, in an area where
a counterinsurgency sweep netted rifles, a grenade launcher and
carbines belonging to the front. The report was disseminated
[REDACTED] on June 13, 1985 to:

U.S. Embassy, Guatemala (Ambassador only);
Exclusive for Director, INR, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA; and
Exclusive for USCINCSO.

22. [REDACTED]

[REDACTED]

23. October [REDACTED] 1988 Intelligence Report. [REDACTED]

[REDACTED] provided the status of three ORPA units. [REDACTED] the three units all operated in the San Marcos area--the first unit was under the command of Isaias, and the third unit had been under the command of Everardo. No details were available on the second unit. [REDACTED] stated that Everardo had been killed in an unspecified action and no new unit commander had been identified. The function of all three ORPA groups, [REDACTED] was to disrupt agricultural production in the area. This report was disseminated [REDACTED] on October [REDACTED] 1988 to:

[REDACTED]

24. May 23, 1989 Intelligence Report. [REDACTED]

[REDACTED] provided information on the structure of the Luis Ixmata Battalion of ORPA. Everardo was identified as the leader of the RPC and overall deputy commander of the battalion. Obviously he had not been killed as the previous report indicated. This report was disseminated [REDACTED] on May 23, 1989 to:

U.S. Embassy, Guatemala;

White House Situation Room;
State, INR;
NSA;
DIA;
Treasury; and
USCINCSO.

25. December 7, 1989 Intelligence Report. [REDACTED]

[REDACTED] a Guatemalan [REDACTED] had encountered an ORPA guerrilla unit. The guerrillas reportedly fled from the area, leaving behind liquor, foodstuffs, batteries, utensils, clothing, and material destined for an ORPA battalion. The material included Christmas cards intended for Commanders Everardo and Isaias of the ORPA urban front. The report was disseminated [REDACTED] on December 7, 1989 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury; and
USCINCSO.

26. April 3, 1990 Intelligence Report. The last report prior to March 1992 that has been found included details [REDACTED] regarding the Luis Ixmata Battalion of the ORPA. The report stated that the Luis Ixmata Battalion consisted of 90-100 armed guerrillas and was augmented by additional part-time RPC fighters. The Battalion was said to make heavy use of support units based in Mexico and was reportedly involved in the cultivation and protection of opium poppy in the San Marcos area of Guatemala. The report mentioned that Commander Everardo headed the RPC. It stated that the RPC operated in the Altiplano region in three different zones and that year planned to expand its work into previously unaffected areas, especially into the towns. The report was disseminated [REDACTED] on April 3, 1990 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
Drug Enforcement Administration (DEA);
U.S. Customs Service (Customs); and
FBI.

WHAT INFORMATION WAS AVAILABLE TO THE CIA BETWEEN MARCH 1992 AND THE END OF JANUARY 1995 CONCERNING BAMACA? HOW WAS THAT INFORMATION HANDLED? HOW RELIABLE WERE THE CIA ASSETS FROM WHOM THE INFORMATION WAS ACQUIRED?

27. Between March 14 and March 23, 1992, two major Guatemalan daily newspapers reported on a March 12, 1992 armed encounter between the Guatemalan Army and ORPA at Nuevo San Carlos in Retalhuleu Department. One account, attributed to the Guatemalan Army's press office, noted that two guerrillas, one of whom was a group leader, died as a result. A January 1995 review by the [REDACTED]

[REDACTED] of Guatemalan newspaper archives indicates that the stories included photos of an individual described as an insurgent who was killed in one encounter. There was nothing in the reports, however, that identified the insurgent as Bamaca or Commander Everardo.

[REDACTED] comments that the armed encounter in which Bamaca was presumably captured was reported by the press in a more thorough manner than were most other Guatemalan Army/URNG engagements.

28. March 18, 1992 Intelligence Report. [REDACTED]
the Agency Station in Guatemala City obtained information [REDACTED]
[REDACTED] pertaining to the capture of
Everardo, the Commander of the ORPA's Luis Ixmata Battalion.
[REDACTED] Everardo had been caught in an

earlier. [REDACTED]
[REDACTED]
[REDACTED]

29. [REDACTED]

30.

[REDACTED]

31. The information was sent to Headquarters by the Station [REDACTED]
[REDACTED] and disseminated [REDACTED] on March 18,
1992 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury; and
USCINCSO.

32. [REDACTED]
[REDACTED]
[REDACTED]

33. There is no indication of further reporting by
[REDACTED] on the fate of Bamaca until November 1994, when
Headquarters directed the Station to canvass its assets for additional
information on Bamaca. [REDACTED]
[REDACTED]
[REDACTED]

34. April 1, 1992 Station Report. [REDACTED] the
Station obtained information [REDACTED] that an ORPA
founder and one of its principal leaders, identified only as
[REDACTED]
[REDACTED]

"Comandante Everardo," was allegedly killed during combat in Quiche. [REDACTED] was tasked at the time by the Station officer to provide additional details and attempt to obtain [REDACTED] reports confirming Everardo's death.

35. [REDACTED]

36. [REDACTED]

37. The Station submitted the Station officer's report [REDACTED] regarding Everardo's death to the DO at Headquarters on April 1, 1992. There was no further dissemination of the information nor apparently were any additional details

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provided by [REDACTED] during [REDACTED] meetings in 1992 with Station officers.

38. There is no indication of further reporting by [REDACTED] on the fate of Bamaca until November 1994, when Headquarters directed the Station to canvass its assets for additional information on Bamaca.

39. [REDACTED]

[REDACTED]

40. [REDACTED]

[REDACTED]

41. [REDACTED]

[REDACTED]

42. None of the [REDACTED] reports submitted by the Station during 1992 implicated any specific individual in the interrogation or killing of Bamaca. Nor did the reports mention Bamaca by name. Rather,

all [REDACTED] referred only to "Everardo." This fact later contributed to a delay during October 1994 in a DO effort to retrieve all Bamaca reporting. Further, a misspelling of "Everardo" in a DO computer search contributed to the delay and resulted in the initial omission of the March 18, 1992 intelligence report from analyses prepared by the Agency's Directorate of Intelligence (DI) on October 24 and November 4, 1994. With the exception of the [REDACTED] intelligence reports and the one Station report cited above, there was no further Station reporting referring to either "Everardo" or Bamaca until May 1993.

[REDACTED]

[REDACTED]

43. March-April 1993 Embassy Telegrams. During the spring of 1993 a series of telegrams between the Embassy and the Department of State, available to both the Station and Headquarters at the time, discussed the Embassy's efforts on behalf of Bamaca's American wife, Jennifer Harbury, and related information about his fate. Specifically, the Embassy reported the claims of former Guatemalan guerrillas, Santiago Cabrera Lopez and Jaime Adalto Agustin Recinos, that they were held in clandestine military prisons prior to their escape and reappearance in Geneva in February 1993. The Embassy also noted that Cabrera and Recinos said that, while detained, they had seen Bamaca in 1992 at a clandestine Guatemalan Army prison. The Guatemalan Army, according to the Embassy, denied holding Bamaca and claimed he was probably buried at an unmarked grave near Retalhuleu, the site of the March 1992 clash with government troops. The reports by Cabrera and Recinos led to renewed efforts by the Embassy to determine Bamaca's whereabouts.

44. According to Embassy reporting, Harbury contacted the Embassy's Human Rights Officer on March 9, 1993 to request the Embassy's assistance in (1) inquiring of Guatemala Government officials about Everardo's whereabouts; and (2) arranging for the exhumation of a grave where he might be buried. In a later discussion on March 18 with Embassy officers, then-Guatemalan Human Rights Ombudsman Ramiro De Leon Carpio (later to become President) said that he had become involved in the case after

receiving discreet inquiries from a bishop and the URNG. De Leon added that when he approached the Minister of Defense (MOD) and other government officials, he was told Everardo was probably buried in an unmarked grave in Retalhuleu. De Leon's office subsequently requested and received permission to exhume the grave, but the mid-1992 proceeding was halted by then-Attorney General Acisclo Valladares, who claimed that the exhumation was illegal as no family members were present and there were no other means by which to identify the cadaver. The Embassy reported that Harbury claimed she and other international observers were present. However, Harbury was reportedly afraid to identify herself as Everardo's wife and the exhumation was not completed.

45. On March 26, 1993, according to Embassy reports, Embassy officers met with then D-2 Chief Otto Perez Molina, who confirmed that (1) the military definitely did not have Everardo and had never heard the name "Bamaca" until after the guerrilla leader's capture; and (2) Bamaca was probably buried in Retalhuleu. Perez Molina offered no further details regarding the capture of Bamaca. On March 30, 1993, the Embassy's Human Rights Officer contacted Harbury to communicate this information and offered to act as a confidential conduit for future messages between Harbury and the Guatemalan Government. Embassy reporting also indicated that Embassy officials had stressed during all conversations with Harbury and others that "our involvement in this case does not imply in any way that we are taking sides in Guatemala's armed conflict." Finally, an April 3, 1993 Embassy telegram noted that the Embassy's efforts had turned up little information not already known to Harbury and that the Embassy had no independent new information concerning Everardo's current whereabouts or status.

46. Except for general references to the claim by Cabrera and Recinos that they had seen Bamaca alive in 1992, there is no indication that any further details of their allegations were reported or made available to the Agency until November 1994, when a State officer provided an Agency officer with a copy of an October 7, 1994 sworn statement that Cabrera had made in Washington, D.C.

47. [REDACTED]

[REDACTED] Referring to a human rights group report that indicated there were clandestine jails located in Guatemala City and at some bases in the interior, [REDACTED] requested that Station officers [REDACTED] to determine if they knew about any clandestine jails that may have been used by the military to confine guerrillas or others [REDACTED]

48. [REDACTED] the Station obtained information [REDACTED]

[REDACTED] that [REDACTED] confirmed the stories being told by "Willy" and "Carlos" (referring to Recinos and Cabrera) regarding captured URNG members, including Bamaca, who were being held in clandestine prison cells by the Guatemalan military. [REDACTED] stated; [REDACTED] that Bamaca was alive in a clandestine prison in 1992. [REDACTED] acknowledged that captured URNG members were held in cells on military compounds by the Guatemalan Army, and [REDACTED] that the military used physical coercion against URNG members as part of a persuasion process to convince them to work against the insurgency. The substance of [REDACTED] report focused primarily on the clandestine detention program, not Bamaca's fate.

49. [REDACTED]

50. [REDACTED]

[REDACTED]

51. [REDACTED] information was not promptly disseminated. [REDACTED]

[REDACTED] the Station requested guidance on how best to disseminate the information [REDACTED] to Washington consumers. The Station request for guidance was premised on an expressed concern that precipitous Department of State action based upon the information could endanger [REDACTED] and that" [REDACTED]

[REDACTED]

52. [REDACTED]

[REDACTED]

[REDACTED] The Station added

....Equally disturbing is that [REDACTED]

[REDACTED] State desk officer was in communication with the Embassy through E-mail, and possibly [REDACTED] telephone, regarding [REDACTED] reporting and the demarche. [REDACTED]

[REDACTED] the State desk officer had no business even knowing about the information, let alone discussing it with the Embassy in a less than secure fashion. It is obvious from this that State has little regard for our controls [REDACTED]

/

[REDACTED]
[REDACTED] it endangers our ability to collect additional information on sensitive issues....Request HQS speak with State Department regarding source protection and what is and is not appropriate use of our reporting. If source protection problems persist, Station plans to carefully reconsider our coordination procedures with the Embassy. [REDACTED]
[REDACTED]

53. [REDACTED] the Station reminded the Chief, Latin America (LA) Division of its questions regarding [REDACTED] reporting and again requested guidance for dissemination of the information. The Headquarters [REDACTED] officer surmises that the [REDACTED] Station request for guidance had not been included in the Division's reports database because it was addressed directly to the Chief of the DO's LA Division [REDACTED]
[REDACTED] She adds that the [REDACTED] Station reminder may have triggered new interest in the report as the assessment of the report that was later sent to the Station expressed "thanks to the Station for its resubmission of this report."

54. [REDACTED]
[REDACTED]
[REDACTED] an ORPA member, Raul Molina, traveled to Guatemala in June 1993 to pressure the Guatemalan Government and military to prove the military's claim that Bamaca was dead. [REDACTED]
[REDACTED] the URNG leadership did not believe that Bamaca was dead. [REDACTED] the capture of Bamaca, third in command of ORPA, seriously damaged the organization, as it was forced to change safehouses, tactics, and communications procedures. [REDACTED] the URNG leadership believed Bamaca's capture and the knowledge he possessed concerning ORPA and the URNG would be extremely valuable to the Guatemalan military. Thus, the URNG believed he was still alive.

55. [REDACTED]
[REDACTED]

[REDACTED]

56.

[REDACTED]

[REDACTED]

57.

[REDACTED]

58.

[REDACTED]

[REDACTED]

59. There is no indication of further reporting [REDACTED]
[REDACTED] on the fate of Bamaca until November 1994, nor was
there additional Station reporting on Bamaca until April 1994.

[REDACTED]

60. July-August 1993 Embassy Telegrams. The Department of State continued to report, however, on the activities of Harbury, who had arrived in Guatemala in July 1993, and the Embassy's efforts on her behalf. According to that reporting, on July 9, 1993 Embassy officers met with Harbury who requested the Embassy make her presence and cause known to the Guatemalan Government. Harbury had hired a well-known human rights attorney to handle her case and obtained a court order to exhume a grave in Retalhuleu Cemetery reported to contain Bamaca's body. The exhumation took place on August 17, 1993, but forensic experts concluded that the body was not that of Bamaca.

61. Three days later, according to Embassy reporting, Ambassador McAfee met with Harbury to discuss the exhumation results. In response to Harbury's request for support for her efforts, McAfee informed Harbury that she and other Embassy officers had discussed and would continue to discuss the case with the highest level officials of the Guatemalan Government, including President De Leon and MOD Enriquez. McAfee also indicated in an August 1993 telegram to Washington that "we have no evidence to confirm Harbury's claim of the ongoing detention of URNG combatants, to include Bamaca, but against that possibility [McAfee] has continued to press the issue with the [government of Guatemala]."

62. September 23, 1993 [REDACTED] Report. The [REDACTED] obtained information on [REDACTED] [REDACTED] that clandestine military prisons had always existed in Guatemala. [REDACTED] added that insurgents captured by the Army were held incommunicado in isolated locations in different military zones, interrogated and, after the Army believed it had extracted all useful information from them, killed them and disposed of their bodies. As to Bamaca, [REDACTED] [REDACTED] during the time of the March 1992 firefight, that Bamaca had been held incommunicado, interrogated a number of times, and killed.

63. The [REDACTED] report was disseminated to DIA on September 23, 1993, via the [REDACTED] [REDACTED] which at the time did not include subsequent dissemination to Agency Headquarters. Consequently, the [REDACTED] report was not made available to Agency Headquarters until November 10, 1994, [REDACTED]

State, INR was also not aware of the DAO's September 1993 report.

64. A [REDACTED] comment was included in the report and noted that [REDACTED] had raised the question of clandestine military prisons with MOD Enriquez several times. MOD Enriquez had insisted there were no clandestine prisons or prisoners being held incommunicado. The [REDACTED] report commented further that the MOD's official response might stem from a difference in interpretation of the term "clandestine military prisons." In the minds of the Guatemalan military leadership, this term might mean a fixed, secure site where a prisoner is held, and not the semi-permanent sites that had reportedly been used for detention rather than incarceration.

65. October 14, 1993 Intelligence Report. [REDACTED] the Station obtained information [REDACTED] that recent allegations by two imprisoned former Army specialists regarding

clandestine prisons and cemeteries had caused great concern within the military. The two specialists, who had been imprisoned in connection with the DeVine killing, made public allegations that they had been part of Guatemalan Army death squads and could provide information on clandestine prisons and cemeteries operated by the Army. [REDACTED]

66. [REDACTED]

The information was disseminated [REDACTED] on October 14, 1993 to:

U.S. Embassy, Guatemala (principal officers only);
Exclusive for Director, White House Situation Room;
Exclusive for the Assistant Secretary, INR and the
Assistant Secretary, Diplomatic Security, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

67. [REDACTED]

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68. November 1993 State Telegram. The Department of State reported that senior State officials Annie Patterson and John Shattuck met with Harbury in Washington in October 1993 to discuss the Bamaca case. Harbury recounted the testimony of URNG prisoners who said they saw Bamaca alive in March and July 1992 in secret army detention centers and stated that 36 URNG prisoners had been sighted alive in different places at different times. Harbury also described the exhumation in Retalhuleu of a guerrilla who the military erroneously had claimed would be Bamaca. Harbury, noting Army statements that her husband had shot himself in the mouth to avoid capture, said the cranium of the body exhumed in Retalhuleu had been smashed by rifle butts, not a bullet. Harbury said she believed Bamaca was still alive, based on a reported Guatemalan Army policy of exploiting all URNG captives for their intelligence value. Harbury placed great emphasis on Bamaca's 17 years of experience in the URNG and his close ties to ORPA leader Rodrigo Asturias and concluded that Bamaca knew too much of interest to the Army to be summarily executed.

69. State further reported that Harbury also cited a complaint she had filed in March 1993 with the Inter-American Commission on Human Rights (IACHR). The IACHR subsequently requested, in October 1993, that the Guatemalan Government take precautions to protect the lives of URNG and other prisoners who might be held in secret detention centers and to investigate all allegations regarding such cases. Harbury provided Patterson and Shattuck with copies of the IACHR's letter, which recommended that the Guatemalan Government undertake serious and effective investigations of the cases mentioned in Harbury's complaint, including interrogation of witnesses by independent experts to guarantee impartiality.

70. Neither [REDACTED] nor other Embassy or [REDACTED] reports available to the Agency during 1993 implicated any individual by name in the interrogation or killing of Bamaca.

71. January 1994 Embassy Telegram. The first mention of Alpirez in connection with Bamaca's fate was made by Harbury in

January 1994. According to Embassy reporting, Harbury returned to Guatemala in January 1994 and met with Ambassador McAfee to discuss her new proposal to seek the release of Bamaca and other URNG combatants in exchange for a "no-fault" pledge by various groups interested in Guatemalan human rights. According to Embassy reporting, during a meeting on January 12, 1994, Harbury noted that she had obtained a list of Guatemalan military graduates of the School of the Americas, located in Fort Benning, Georgia. She further maintained that two persons on the list, Colonel Julio Roberto Alpirez and Major Mario Sosa Orellana, were identified by witnesses, not further identified in the Embassy telegram, as having supervised Bamaca's torture at one of the military bases where he had been held. Harbury told McAfee she was contemplating filing criminal charges against them in Guatemalan courts, although she preferred to pursue a negotiated solution before resorting to the courts. McAfee indicated that, while the Embassy had not reached any definitive conclusion on the validity of Harbury's charges, her accusations did raise serious questions that must be addressed by the Guatemalan Government. She pledged the Embassy's continued support in pushing the Guatemalan Government to investigate the fate of Bamaca and any other detainees.

72. May 2, 1994 Intelligence Report. [REDACTED]

Station obtained information [REDACTED] that Alpirez [REDACTED] [REDACTED] had been assigned to an Army unit based in San Marcos in Military Zone 18, in March 1992 when Bamaca, a.k.a. "Comandante Evarardo" (sic), was captured. Because of Bamaca's relatively high rank within ORPA, Alpirez reportedly [REDACTED] had personally interviewed Bamaca before D-2 officers took Bamaca away shortly after his capture. [REDACTED] it was the last time [REDACTED] heard anything about Bamaca's whereabouts or status. [REDACTED]
[REDACTED]
[REDACTED]

73. [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED] Bamaca was in good, if not excellent, health after his capture. [REDACTED]

[REDACTED]

[REDACTED]

74. [REDACTED]

[REDACTED]

[REDACTED]

75. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

79. The Station responded in August 1994 that it understood that the [REDACTED] report described events that took place two years earlier, [REDACTED]

[REDACTED]

[REDACTED] The Station further commented that the Bamaca issue was still of extremely high interest to U.S. policymakers [REDACTED]

[REDACTED]

80. [REDACTED]

[REDACTED]

81. [REDACTED]

[REDACTED]

[REDACTED]

82. [REDACTED]

[REDACTED]

83. [REDACTED] officers had reportedly been sent out to all military zones for the purpose of destroying all reports held by the zones that could implicate the Army in human rights violations. [REDACTED]

[REDACTED]

84. [REDACTED]

[REDACTED]

85. The information was sent to Headquarters by the Station [REDACTED] and disseminated as an intelligence report [REDACTED] to: [REDACTED]

U.S. Embassy, Guatemala (principal officers only);
Exclusive for Director, White House Situation Room;
Exclusive for the Assistant Secretary, INR and the
Assistant Secretary, Diplomatic Security, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

86.

87. May 12, 1994 Intelligence Report. Information corroborating [REDACTED] report of document removal was provided by [REDACTED] on May [REDACTED] 1994. [REDACTED] [REDACTED] Guatemalan MOD Enriquez had given verbal orders to a private meeting of military zone commanders to identify clandestine cemeteries for removal and to purge intelligence-related documents. [REDACTED]

88. The information was reported to Headquarters by the Station on May 11, 1994 and disseminated [REDACTED] to:

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U.S. Embassy, Guatemala (principal officers only);
Exclusive for Director, White House Situation Room;
Exclusive for the Assistant Secretary, INR and the
Assistant Secretary, Diplomatic Security, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

89. [REDACTED]

[REDACTED]

90. June - September 1994 Embassy Telegrams. According to Embassy reporting available to the Agency at the time, Harbury returned to Guatemala in May 1994 and met with Embassy officials. During the first meeting, on May 24, 1994, Harbury asked for an account of Embassy reports and findings, if any, on her case. She was told that Embassy officers regularly prodded their Guatemalan Government contacts for action and answers on all unresolved human rights cases of interest to the U.S. Government. Harbury was also advised by the Consul General and [REDACTED] that the Embassy was unaware of any new information regarding Bamaca's whereabouts. Harbury then requested that the Embassy arrange a meeting with President De Leon so that she could propose a compromise solution to him personally. Harbury's offer involved moving Bamaca and 35 others to a public prison where she and an United Nations representative could visit and monitor their welfare until their release. In return, Harbury would drop her campaign against the Guatemalan Government and criminal charges against Guatemalan military members. Ambassador McAfee requested such a meeting, but, President De Leon was not able, or not inclined, to meet with Harbury.

91. During subsequent May 1994 meetings with Embassy officials, Harbury noted that MOD Enriquez, whom she had met in Washington, hinted that Bamaca was alive and being held by the Army. [REDACTED] responded that he had never heard the MOD infer that Bamaca or any other prisoner was alive. Harbury replied that she "was reading between the lines, but correctly; she believed Enriquez was suggesting the possibility of openness to a negotiated solution."

92. After again meeting with MOD Enriquez in Guatemala, Harbury met with Ambassador McAfee and others from the Embassy on May 30, 1994. Harbury said that, during her meeting with MOD Enriquez, he was purposely and discreetly sounding her out on compromise solutions. [REDACTED] cautioned Harbury that the MOD might only be playing an elaborate mental chess game with her and emphasized that the Guatemalan Army has never admitted that it ever held Bamaca. Thus, it would appear strange and illogical that the armed forces would do so now and in this way. Harbury dismissed this and repeated her claim that the MOD was sounding her out. In documenting the details of Harbury's May visit to Guatemala, the Embassy noted Harbury's insistence that Bamaca was alive and being held by the Army but that the Embassy had no information to support her belief.

93. During a meeting three months later with McAfee and Deputy Assistant Secretary of Defense for Inter-American Affairs Mari-Luci Jaramillo, MOD Enriquez said that "perhaps Bamaca is alive somewhere, because it is only in URNG interests that he continues to be (sic) disappeared." He speculated that Bamaca could be in Chiapas with the Zapatista guerrillas since there was reportedly an ORPA unit there. He also said Bamaca could turn himself in to the U.N. Human Rights Verification teams arriving in Guatemala, if Bamaca were still alive outside of Army control. MOD Enriquez stated emphatically, however, that the Army did not have Bamaca and reiterated that he had no idea where Bamaca was.

94. Additional Embassy reporting during the summer of 1994 addressed the Bamaca case. In a June 1994 telegram assessing De Leon's performance during his first year as President, the Embassy noted that De Leon had immediately shown his commitment to human rights upon taking office. He had, for example, dismantled the "Archivos"—the Presidential security staff that was reportedly responsible for many abuses—broken tradition by appointing a civilian police director, initiated reforms such as human rights training, and removed military personnel from the national police. Nonetheless, these measures, coupled with an increased atmosphere of toleration for dissent, had failed to reduce the number of reported abuses committed in 1993 or to remedy the lack of progress in resolving older, high profile human rights abuse cases. In the Bamaca case, the Embassy noted that the lack of results was partly due to factors beyond the President's control, such as the passage of time, incomplete preliminary investigations, lack of evidence, etc., but was in greater part because of "the impenetrable wall of silence maintained by the military on cases involving their institution, a silence De Leon has not broken through."

95. [REDACTED]

[REDACTED]

96. [REDACTED]

[REDACTED]

97. [REDACTED]

[REDACTED] commented that the testimony of the two guerrillas in Geneva that they had seen Bamaca alive in a clandestine prison was a fabrication. [REDACTED] Bamaca died shortly after being wounded in the firefight with government forces that had resulted in his capture.

98. [REDACTED] the Station advised the DO at Headquarters of this information [REDACTED]

[REDACTED]

[REDACTED]

99.

[REDACTED]

[REDACTED]

100.

[REDACTED]

[REDACTED]

101. August 18, 1994 Station Report. On August 18, 1994, the Station informed the DO at Headquarters that [REDACTED]

[REDACTED] was convinced that Bamaca was killed in a firefight with Army troops in March 1992

[REDACTED]

[REDACTED] also said that the two guerrillas who escaped and testified in Geneva did so for political reasons in support of URNG propaganda objectives. [REDACTED]

[REDACTED]

102. [REDACTED]

[REDACTED]

[REDACTED] There was no further dissemination of [REDACTED] information because, as a Headquarters reports officer recalls, [REDACTED] information was viewed as speculative and based on rumor.

103. October 7, 1994 Statement by Cabrera. On October 7, 1994, Cabrera, also known as "Carlos," provided a sworn statement in Spanish to an attorney in Washington, D. C., detailing the events surrounding his capture and imprisonment by the Guatemalan military. [REDACTED] an Agency analyst [REDACTED]

[REDACTED] recalls that Cabrera was in Washington to testify before a session of the OAS. [REDACTED] and Peg Willingham, the Department of State's Guatemala desk officer, had planned to attend the OAS session but were unable to do so as Cabrera's testimony was taken in a closed session. [REDACTED]

[REDACTED]

[REDACTED] nor any Agency Headquarters officers were aware

of the existence of Cabrera's statement until Willingham provided a copy [REDACTED]
[REDACTED]

104. [REDACTED] Willingham gave no indication of when or from whom she received the statement. He believes, however, that Harbury or her attorney provided the statement to Willingham as Cabrera's statement was sworn and notarized in the law offices of Harbury's attorney.

105. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] In addition, Embassy reporting indicated that Cabrera's statement was faxed to it from State, INR on November 2, 1994, and that this was the first time the Embassy had received an actual text of Cabrera's declarations. [REDACTED]
[REDACTED]
[REDACTED]

106. According to Cabrera's statement, in May 1989 he joined ORPA's Luis Ixmata front, headed by "Commander Everardo," and served as a combatant until his capture by the Guatemalan military in March 1991. Held captive until December 1992, Cabrera says he was moved several times between Guatemalan military detachments and subjected to interrogations, beatings, and physical and psychological torture. After some months in captivity, Cabrera said he was forced to collaborate with the G-2 and participate in military operations, which eventually led to his arrival at Santa Ana Berlin in Coatepeque in the Quetzaltenango Department on March 12, 1992. While there, Cabrera indicated that he heard G-2 officers mention that they had captured "Commander Everardo" during combat in Nuevo San Carlos, Retalhuleu Department. One G-2 officer, Simeon Cum Chuta, asked another former combatant in the Luis Ixmata front named "Augusto" if he could identify Everardo.

107. Cabrera's statement, translated into English, describes his first sighting of Everardo in captivity and offers specific details

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concerning his incarceration. The full text of Cabrera's statement, relative to Bamaca and his fate, is as follows:

On March 12, we arrived at Santa Ana Berlin, Coatepeque, Quetzaltenango. I heard the G-2 members, including Simeon Cum Chuta, comment that they had captured Everardo in combat in Nuevo San Carlos, Retalhuleu. Simeon Cum Chuta told Augusto in my presence that they had captured Everardo of the URNG. Cum Chuta asked him if he could identify [Everardo], and Augusto said yes (since before he became a collaborator he was a combatant in the Luis Bmata Front, whose commander was Everardo). Cum Chuta then invited Augusto to accompany him so [Augusto] could identify Everardo.

I followed Cum Chuta and Augusto, since Everardo had been my commander and I wanted to see him. I saw Everardo with my own eyes. He was reclining in a metal bed, handcuffed, and with his feet tied with a rope. At that time, I did not notice any wound on him. Everardo saw me but did not greet me. Neither did I greet him, for caution's sake. Augusto identified him, an act which greatly pleased Cum Chuta. "Augusto" spoke to Everardo against the URNG, I believe for the purpose of ingratiating himself to Cum Chuta and Captain Laco who was also present. They say that Captain Laco was from the staff headquarters in the capital.

At that juncture, Captain Laco asked me if I had anything to say. I said no and the Captain then asked me to leave. I left.

A soldier with the surname Ochoa (originally from the Goritzea plantation) told me that Everardo had been captured by a unit of the 3rd Battalion of San Marcos Department whose officer-in-charge was Colonel Barahona. A captain whose name I do not know was in charge of that unit.

I found out from Ochoa that, upon capturing Everardo, the Army took him to the Nuevo San Carlos military detachment. A few moments later, Everardo was taken by helicopter to Santa Ana Berlin. All of this was related to me by members of the G-2. Even Everardo himself told me so when I spoke to him in the days that followed.

For 20 days, I continued to see Everardo at Santa Ana Berlin. He was also seen by other prisoners such as "Karina," "Augusto,"

"Bayardo," "Garo," and "Neto." He was subjected to interrogation by members of the G-2, whose pseudonyms were "Kaibil" or "Chato," and Captain Laco. They had arrived from the capital. He was also guarded by the previously cited G-2 specialist, Simeon Cum Chuta; Rene Alfaro Loarca, also from the G-2; and, "Fernando" (his legal name is Pedro Juarez Cabrera), from the G-2 in Santa Ana Berlin. The specialist Molina was also on hand.

I noticed that Everardo was subjected to interrogation day and night. I heard Major Soto, from the G-3 (Operations), verbally abuse him, offering him death by stabbing or hanging. I saw the major put his pistol in Everardo's face, shouting to him that he was going to kill him. He wanted to break Everardo's spirit.

Two or three days later, I saw Everardo clad in Army garb. The Army had forbidden anyone to talk to him. There were always G-2 agents guarding him. Even so, I managed to talk to him. On one occasion when I was the only one watching over Everardo, I managed to have a conversation with him. He recognized me since I had served in the Luis Ixmata front for a year and nine months under his command. With tears in his eyes, he asked that I make known his capture before the human rights groups. I promised to help him, but told him that he should be careful with others among the captured combatants (such as "Karina" and "Augusto").

Since I was not at liberty to leave the military base by myself, I could not make the statement with regard to Everardo's capture.

On or about April 15, 1992, I saw Simeon Cum Chuta turn over Everardo to four persons clad in civilian attire and arriving by helicopter. I personally saw Everardo leave the base at Santa Ana Berlin in that same helicopter.

Later on, I saw the report prepared by Simeon Cum Chuta, stating that the helicopter that took Everardo away was headed for the nation's capital.

On 30 April 1992, at 2400, the Guatemalan Army Chief of Staff sent messages to the operations commanders and those of the G-2. They stated that the military operation had been terminated. That same day, the prisoners (myself included) were sent to the bases where we had been previously held. I returned to San Marcos Department (the administrative center).

In late May or early June 1992, Major Mario Sosa Orellana from the G-2, rounded up the prisoners of war along with the members of the G-2. He told us that matters had to be handled in a more clandestine fashion and that, if we were to see something happening in the G-2, it was not to be talked about, even to the soldiers. Then, he told us that Commander Everardo was dead. He said that he had tried to escape, that they had captured him, and shot him. Upon stating that, he looked at our faces to determine who among us was assailed with sadness.

In July 1992, I was in Military Zone 18, San Marcos Department. About 18 July, I again saw Commander Everardo at Military Zone 18 in San Marcos Department. I saw him in the G-2 dormitory, handcuffed to the same bed to which I had previously been handcuffed. That same evening, Colonel Julio Alpirez, the third commander of Military Zone 18 in San Marcos Department, arrived. Major Mario Sosa Orellana, a major in the G-2, was also there.

The colonel instructed the Major that Everardo did not have to be there with us, the other prisoners of war. They took him to a secret room of the military infirmary. They prohibited us from coming near there and talking with Everardo.

Prior to being transferred to the infirmary, Everardo had spoken with "Karina." He had told her that, prior to his arrival in San Marcos Department, he had been in Military Zone 1815 in Quetzaltenango, the previous June. "Karina" related this to me.

I do not know if it was an act of carelessness, but, that night, they dispatched two G-2 soldiers with me and a specialist to tend to Everardo. I saw Everardo in that room of the infirmary. He had both his hands handcuffed to a double bed and his feet bound.

At daybreak the next day, Colonel Julio Alpirez came on the scene again. Upon seeing me, he inquired why I was there. He ordered me to leave and told me: "You saw what was happening here. Be careful and don't go telling anyone that Everardo is here."

That same day in the evening, G-2 Major Sosa Orellana arrived and ordered the specialist Juan Orozco Giran to bring in the medical team from the regional hospital that is subordinate to Military Zone 18. The specialist made his exit and returned with a gas, unidentified, green in color, with a silver clock on top and

some valves serving as indicators. I helped to get it down. They handed over the dispatch to Major Sosa, stating that the team had already arrived and that the doctor was on his way in his own vehicle.

Then, Sosa Orellana said: "We have to take this to where Everardo is." Everardo spent the night with the agents from the G-2. We were not permitted to enter. The next day, G-2 specialist Simeon Cum Chuta sent me to get a typewriter from that room of the infirmary. The door had been locked and there were three soldiers nearby. They opened the door for me and I entered. From the inside, Colonel Alpirez turned to me and said: "You, what are you doing here?" I told him that I had been ordered by Cum Chuta. Specialist Gualip was there and stated that it was his fault for not having the typewriter previously. The Colonel told me: "You're the only one who came in yesterday and now you've come in again. Be careful that you don't divulge what you've seen here. I don't want to hear reports to the effect that Everardo is in that condition, tied up. If you talk, you know what will happen to you."

G-2 specialist Rene Jimenez Rosales and G-3 operations officer, Major Soto, were also present.

They were interrogating Everardo there. I heard Everardo, as if he were [half] asleep or drugged. He had on only his underclothing. His entire body was swollen. His right arm and his left leg were entirely covered with bandages. He was bandaged about the eyes as well. The gas tank was near him.

One or two days later, I again saw Everardo. He was clad in a soldier's uniform and I could not see his arm or leg. But, his body was no longer inflamed. He was once again speaking normally.

That is the last time that I saw Commander Everardo. I left the base for a few days and when I returned, he was no longer there.

108. October 1994 Embassy Telegrams. On October 8, 1994, a day after Cabrera delivered his sworn statement in Washington, Harbury returned to Guatemala. On October 11 she initiated a hunger strike in front of the national palace in Guatemala City.

According to available Embassy reporting, Harbury told the Consular Officer who visited her that she planned to continue her hunger strike until Bamaca was presented alive or until she was given a firm answer regarding his whereabouts. The Consular Officer emphasized that the Embassy continued to place priority on her case, and noted that the Ambassador and the rest of the Embassy staff raised the Bamaca case with their contacts at every opportunity. The Consular Officer also emphasized that, despite Harbury's assertions to the contrary, the Ambassador and other Embassy officials with whom Harbury had met in the past had been completely candid with her with regard to Embassy efforts to obtain information concerning Bamaca's whereabouts and the Embassy's lack of any independent evidence regarding his fate.

109. On two separate occasions in 1994, October 12 and October 16, Ambassador McAfee also visited Harbury. Harbury told McAfee emphatically that all assistance to Guatemala should be cut off until the Bamaca and other human rights cases were resolved. McAfee responded that military aid had been cut off years earlier, but that the Embassy continued to believe that institutional change and its necessary funding should continue in order to improve the overall conditions that would affect the future human rights situation. The Embassy also reported that, on October 11, in the Guatemalan Government's only public statement during Harbury's hunger strike, MOD Enriquez restated the Army's position that it did not know where Bamaca was and that, if the military did have him, they would surely have presented him long ago to the Human Rights Ombudsman's office.

110. [REDACTED]

[REDACTED]

[REDACTED]

111. October 24, 1994 Agency Analysis. Until to October 19, 1994, [REDACTED] the Station had not been tasked [REDACTED] to provide a summary of its holdings on Bamaca. [REDACTED]

[REDACTED] that the Station had been tasked by DCM Keane to pull together its information [REDACTED] concerning Bamaca, a.k.a. "Comandante Evarardo" (sic), so that Keane could draft a "definitive" Embassy statement. According to the Station, Keane indicated that the Embassy statement had been requested for the NSC and the White House, both of which were receiving telephone calls from Harbury supporters alleging that the U.S. Government had not pursued Harbury's view that Bamaca was still alive and being held in a clandestine army jail. [REDACTED] it was under an October 21 deadline, [REDACTED]

[REDACTED]

[REDACTED]

112. In response to Keane's tasking, then-COS [REDACTED] produced a classified memorandum that [REDACTED]

[REDACTED] indicated that [REDACTED] alias "Comandante Evarardo," (sic) contained two intelligence reports--(1) [REDACTED] had confirmed as true the claims of two escaped URNG members that they saw Bamaca alive; and (2) the May 2, 1994 report that [REDACTED] (Alpirez) had interviewed Bamaca after his capture and before D-2 officers took him away. In addition to the report summaries, [REDACTED] memorandum [REDACTED] included copies of the two intelligence reports as attachments. [REDACTED] memorandum included the conclusion that [REDACTED]

the best information available to the Station indicated that Bamaca was captured alive in early 1992 but the Station had no information regarding whether Bamaca was still alive.

113. Later, on [REDACTED] the Station provided a second classified memorandum [REDACTED] This memorandum included the DI analysis that had been faxed to the Station and was based on information that had been retrieved from Agency files by searching under Bamaca and "Everado" (sic). The analysis, drafted by DI Office of Africa and Latin America (DI/ALA) Guatemalan analyst [REDACTED] addressed the issue of clandestine prisons, as well as Bamaca's fate, and was derived from previously disseminated Agency intelligence reports, except for the March 18, 1992 intelligence report on "Everardo."

114. According to [REDACTED] the analysis was initiated at the request of the NSC. Prior to its issuance to the NSC on October 24, however, Diaz faxed a copy to the Station [REDACTED] based on the Station's separate request for analysis. In preparation for the analysis, [REDACTED] had initiated an electronic search for DO intelligence reports, using as search criteria the names of Bamaca and "Everado" (sic). As Everardo was misspelled [REDACTED] search did not retrieve the March 18, 1992 report indicating that Everardo had been captured alive, was in good health, and was cooperating with the Guatemalan military. Thus, the March 18, 1992 report was not included in the DI analysis that was faxed to the Station and issued as an intelligence analytic report on October 24, 1994.

115. [REDACTED] the [REDACTED] Guatemalan [REDACTED] referred to but not named in the May 2, 1994 report, was also not identified in the Station's first memorandum [REDACTED] Nor did the second memorandum [REDACTED] or the DI analysis discuss the March 18, 1992 report that Everardo had been captured by the Guatemalan Army in good condition and was cooperating fully with his captors. According to the Station reports officer, the Station had no knowledge of that report until November 7, 1994 when it was faxed to the Station by Headquarters.

116. [REDACTED] also recalls that he was in touch with Department of State officers Willingham and Savastuk during the same time period, and all three were comparing reporting that State and the Agency had uncovered. [REDACTED] adds that he did not consider Cabrera's October 7 statement significant when he was drafting the October analysis on Bamaca and his fate. [REDACTED] notes that Cabrera named numerous senior Guatemalan officers and noncommissioned officers in his statement detailing the interrogation of Bamaca. According to [REDACTED] Alpirez was only one of several officers mentioned by Cabrera, and Alpirez was not the most senior officer named. Regarding the October 24 analysis, [REDACTED] emphasizes that he and the DI/ALA were asked to focus on what happened to Bamaca, rather than identifying the person or persons responsible for his disappearance or death.

117. The DI analysis [REDACTED] was sent to the Station [REDACTED] and disseminated to the NSC on October 24, 1994 [REDACTED]

[REDACTED]

118. On the subject of Bamaca's fate, the DI analysis offered as possibilities that (a) the Army may have kept Bamaca alive and turned him against his former comrades; (b) Bamaca may have died of battlefield wounds and been buried in an as-yet unidentified grave; or (c) the Army may have executed Bamaca after it extracted whatever information it could from him. The analysis concluded, however, that "ALA does not have enough information to ascertain whether he is still alive." With minor editorial changes, the DI analysis previously faxed to the Station was published as an ALA intelligence report on October 24, 1994, and disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,

Central American Affairs, State;
Director, Office of Central American (CA) Affairs, State;
Special Assistant to the Secretary of State;
Guatemala Desk Officer, State; and
Guatemala INR Analyst, State.

119. As explained above [REDACTED] was unaware, when he drafted the DI analysis, of the March 18, 1992 intelligence report indicating that Everardo had been captured alive and was cooperating fully with the Army. [REDACTED] did utilize the May 2, 1994 intelligence report indicating [REDACTED] had interviewed Bamaca after capture, [REDACTED]
[REDACTED]

120. October 1994 State and Embassy and State Telegrams.
The Embassy reported that DCM Keane had been apprised on October 26, 1994 by the Guatemalan Prosecutor General, Acisclo Valladares, that a habeas corpus writ was to be filed with the Guatemalan Supreme Court and would require an investigation into Bamaca's whereabouts. Valladares acceded to Keane's request for an investigation, to include interviews with all persons who participated in the March 1992 firefight after which Bamaca disappeared, with the involvement of international representatives to lend credibility outside Guatemala to the investigation. During the reported meeting with Keane, Valladares also said that he had called on Harbury twice and interviewed her. According to Valladares, Harbury's position was that the Army was the only real power in Guatemala and, thus, she discarded the notion of an investigation by Guatemalan authorities or any international entity. Rather, what Harbury proposed to Valladares was a "negotiation" with the Army. Valladares told Keane that Harbury's approach was unacceptable, as she was disregarding the entire Guatemalan legal system in favor of some sort of political negotiation with the Army.

121. Valladares indicated to Keane that President De Leon also rejected Harbury's approach. According to Valladares, President De Leon had told him that Harbury had twisted the facts. De Leon offered as an example her assertions that De Leon as Human Rights Ombudsman provided a description of Bamaca in connection with the exhumation in 1992 that originated with the Army. De Leon said, however, that the description of Bamaca was provided to him by URNG members who requested De Leon's intercession to try and locate Bamaca. On October 27, 1994, President De Leon announced that he had appointed Cesar Alvarez, Guatemalan Ambassador to the OAS, to coordinate the investigation concerning allegations that the Guatemalan military was holding guerrillas, including Bamaca, in clandestine detention.

122. October 28, 1994 Intelligence Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED] that the March 1992 capture of Bamaca was viewed as a great success [REDACTED] because Bamaca was the only important indigenous guerrilla leader at that time. All other guerrilla leaders were of mixed Spanish descent. Thus, the armed forces believed Bamaca's capture represented a severe blow to URNG morale.

[REDACTED]

[REDACTED] said that Bamaca sustained serious wounds during the firefight that resulted in his March 1992 capture and died of his wounds shortly after [REDACTED]

[REDACTED]

[REDACTED]

123. [REDACTED] reported the Guatemalan Government first realized Bamaca's capture and death would become a political propaganda issue for the URNG when the two escaped guerrillas appeared before the Human Rights Commission in February 1993 claiming to have seen Bamaca alive in a clandestine prison inside Guatemala. At the time, [REDACTED] recommended to President

Serrano that the Government work to prevent the Bamaca case from becoming a contentious issue by going on the offensive and making public details of numerous credible reports of the presence of foreign advisors, including Americans, with URNG guerrilla combat and political front groups. [REDACTED] Serrano refused.

124. [REDACTED]

[REDACTED] The Station sent the information [REDACTED]
[REDACTED] to Headquarters on October 27, 1994, ascribing the
information to a [REDACTED] This
information was disseminated [REDACTED] to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
Intelligence Units of the Army, Navy, Marine Corps, and
Air Force.

125. [REDACTED]

126. [REDACTED]

[REDACTED]

127. November 1, 1994 Meeting at Department of State. On November 1, 1994, five Agency officers, including [REDACTED] his supervisor [REDACTED] and [REDACTED] LA Division officers, attended a meeting with Department of State personnel to discuss the Bamaca matter. In preparation for the meeting, the Headquarters [REDACTED] reports officer recalls that she was asked to pull together DO information related to reporting on Bamaca [REDACTED]

128. The reports officer reviewed DO files and prepared a [REDACTED] brief description of reporting concerning Bamaca [REDACTED]

[REDACTED]

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129. The Headquarters [REDACTED] reports officer was not aware of an October 1991 intelligence report alleging that Alpirez had been present at the interrogation of DeVine and says she did not know who DeVine was. [REDACTED]

[REDACTED]

130. The reports officer forwarded the memorandum to her supervisor and to the [REDACTED] desk officer, who included handwritten comments, referring to the October 1991 report that Alpirez had been present at DeVine's interrogation, [REDACTED]

[REDACTED]

131. In addition to the five Agency representatives, State officers in attendance at the November 1 meeting, called at the request of State, were Anne Woods-Patterson, Deputy Assistant Secretary of State for InterAmerican Regional Affairs/Central American Affairs (ARA/CEN); Richard Nuccio, Special Assistant to Assistant Secretary of State Alex Watson; Willingham and Savastuk. According to [REDACTED] the State officials wanted to know what the Agency knew about Bamaca and his fate because they had been dealing with Harbury, and the television show "60 Minutes" was about to broadcast a story on her hunger strike. [REDACTED] was the primary Agency briefer at the meeting and says he explained the information available to him at the time, largely drawn from his October 24 analysis. [REDACTED] recalls that State's questions centered on two issues; first, what happened to Bamaca, that is, did Bamaca die on the battlefield as the Guatemalan Government maintains; and second, whether the Guatemalan Government maintains clandestine prisons. [REDACTED] assessment, as conveyed to the State officials, was

that there was not sufficient information available to determine whether Bamaca was alive, and the accusation that the Guatemalans maintained clandestine prisons could not be easily dismissed.

132. One of the Agency officers in attendance recalls that Nuccio, described as the U.S. Government "point man" on peace talks in Guatemala, was astounded at what the Agency knew about the Bamaca matter. According to the officer, Nuccio was upset and indicated that he had possibly been providing erroneous information to Congress and others. The officer adds that Nuccio did not elaborate regarding the erroneous information. Further, the Agency officer's impression was that Nuccio had not taken Harbury's claims seriously and he was unaware of intelligence reports previously disseminated by the Agency to State, INR and detailed in the October 24 Agency analysis. Nuccio also implied during the meeting that he had material in boxes under his desk dealing with the Bamaca issue that he had not had time to read, including photocopies of faxes between former Guatemalan Human Rights Ombudsman De Leon (by now Guatemalan President) and the URNG. Another Agency officer remembers that Nuccio seemed unprepared and said at one point that he had previously met with URNG representatives and wished he had known of the information discussed by Agency officers at the time of those meetings.

133. Immediately after the November 1 meeting, Willingham, who knew and had worked with DI analyst [REDACTED] provided him with a copy of the October 7, 1994 sworn statement in Spanish from Santiago Cabrera Lopez. [REDACTED] says that he and Willingham were both aware that Cabrera, one of the formerly imprisoned guerrillas who had testified before the U. N. Human Rights Commission in February 1993, was scheduled to testify before a session of the OAS. Willingham and [REDACTED] planned to attend the OAS session but did not because Cabrera's testimony was taken during closed session. Soon after [REDACTED] received the statement from Willingham, [REDACTED] prepared a summary English translation of Cabrera's statement and provided copies of the summary and Cabrera's statement to LA Division.

134. As noted previously, there is no indication that Cabrera's actual declarations in Geneva in February 1993 were ever available to or recorded by Agency or State components, except for the general reporting that he had seen Bamaca at a clandestine Army prison in 1992. The Agency DI analyst [REDACTED] has said that he does not believe a record of Cabrera's Geneva testimony exists, and the analyst confirms that he, and [REDACTED] counterparts at the Department of State, have assumed that Cabrera's Geneva testimony was identical to the declarations included in the October 7, 1994 statement offered by Cabrera in Washington, D.C.

135. Shortly after the November 1 meeting, one of the Agency officers in attendance was telephoned by a State officer. The State officer apologized for a memorandum that was being forwarded to the Agency complaining about the meeting. According to the Agency officer, the State officer indicated that the memorandum describing the meeting initially was favorable but had become "politicized" as it went up the State chain of command.

136. Two days after the November 1 meeting, the State memorandum for the record regarding the meeting, from Savastuk through David Smith to Robert Homme, was forwarded to John Allen, the National Intelligence Officer (NIO) for Latin America. In referring to the November 1 meeting, the memorandum stated that "ARA is disappointed with the results of Tuesday's 90 minute meeting and believes the CIA representatives were not entirely forthcoming in discussing the reliability of sources of its memos and TD's, or willing to fully employ existing collection capabilities to develop new information that may be available." The memorandum further indicated that INR was requesting Homme's assistance on behalf of ARA in "urging all relevant CIA offices to undertake the following, and to do so on a priority basis:"

- (a) Explain in detail and in writing the previous and current reliability of all sources and sub-sources used in producing the memos and TD's relating to the Bamaca case in 1992-94, and whether those sources can be called upon again to offer or obtain additional information;

(b) [REDACTED]
[REDACTED]
[REDACTED]

(c) Review the 1993 testimony of Santiago Cabrera Lopez before the U. N. Human Rights Commission and investigate/verify the names of Guatemalan military officers and locations of clandestine army prisons referred to therein;

(d) Investigate the reports of the two Guatemalans now serving 30 year prison terms in connection with the Michael DeVine case who claim to have knowledge of the Bamaca matter;

(e) Intensify collection activity to verify the current or previous existence of--most importantly--clandestine military prisons and also clandestine cemeteries used by the military for burial of guerrillas, and also to develop any new intelligence possible on the Bamaca case including, inter alia, the cooperation of the MOD in the investigation and the possibility that GOG/MOD files relating to this matter, and the general subject of capture/detention/execution/burial of guerrillas, have been or are being destroyed.

137. The five Agency officers who attended the November 1 meeting dispute State's characterization. [REDACTED] for example, says he can recall no part of the meeting that would have left the impression that the Agency was less than forthcoming or supportive. [REDACTED] adds that he recalls the entire meeting went well, Agency representatives were extremely forthcoming, and there were no refusals by the mid-level DO officers to discuss source reliability. [REDACTED] points out that, in response to State's request for extensive tasking of assets by the Agency, DO representatives did not refuse to cooperate but rather pointed out that such tasking takes time to yield results. The most senior of the DO officers who attended insists that State was provided with an extensive briefing on the Agency information collected on Bamaca, that no dissatisfaction was shown by State officers at the meeting, and neither she nor her Agency colleagues showed any unwillingness to fully employ the DO's capabilities. She notes, however, that most of the Agency information on Bamaca was second- or third-hand, and State was apparently not happy with that fact.

138. [REDACTED]

139. According to NIO Allen, who did not attend the meeting, he was telephoned shortly after the meeting by Homme who requested that Allen contact his DI colleagues and ask that they be more forthcoming on the Harbury-Bamaca case. The State memorandum was also faxed to Allen who contacted LA Division officers for clarification and to draft a response. Allen also spoke to [REDACTED] who told Allen that his impression was that the meeting went well and State officers were grateful for the Agency's assistance.

140. On November 10, Allen sent Homme a response to State's memorandum that had been prepared by LA Division. The response expressed LA Division's surprise at State's disappointment regarding the November 1 meeting and added "as we recall there were no concerns expressed at the time and we agreed at the end of the meeting to aggressively pursue further reporting on these issues." In addressing the issues raised by State, the response noted:

....
2. With regard to [REDACTED] we are preparing additional clarification [REDACTED] It is important to emphasize, however, that this information is fragmentary, [REDACTED] and in some cases contradictory when put in the context of other information available. The speculative nature [REDACTED] is reflected in the [REDACTED] memorandum of 24 October 1994 that was provided to our ARA colleagues.

3. As we discussed on 1 November, we are exploring opportunities with Guatemala City Station to secure additional information on the report [REDACTED]

4. Both the DO and the DI are reviewing the testimony of Santiago Cabrera Lopez that was provided at the meeting on 1 November.

5. We are conducting a review of our file holdings to determine whether there is additional information on the allegations of the two imprisoned Guatemalans. We will provide the Department any additional information we identify upon completion of this review.

6. As agreed at the 1 November 1994 meeting, we have been in contact with [REDACTED] on the need for additional reporting on the issues associated with the Bamaca case. [REDACTED]

[REDACTED]

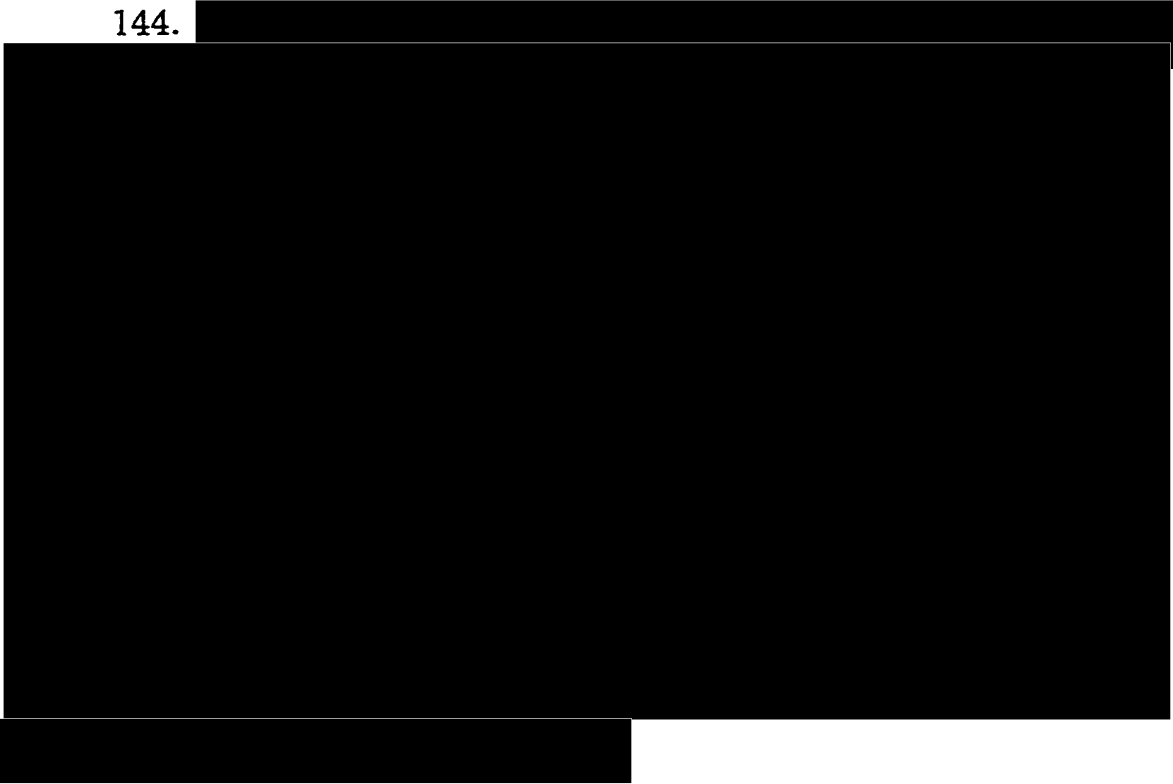
prison issue.

141. November 1994 Embassy Telegram. On November 2, 1994, according to Embassy reporting, the Guatemalan Supreme Court Secretary General informed the Embassy's Consul General and the American Citizens Services (ACS) Consular Officer that Bamaca may be buried in an "XX" grave in Coatepeque. According to the Secretary General, Guatemalan Judge Isnardo Roca, a local judge serving in the town of Coatepeque in March 1992, was preparing to submit a formal declaration to the Supreme Court, confirming that in May 1992 he had ordered and attended the exhumation of two unidentified bodies, one of which was determined to be that of Mexican journalist Fernando De La Mora. After reading a Guatemalan newspaper article that Bamaca had been killed at the same time as De La Mora, Judge Roca said he recalled that there was another unidentified body exhumed with De La Mora's, and he now believes the other body may be that of Bamaca.

142. On Ambassador McAfee's instructions, the ACS Consular Officer visited Harbury at her hunger strike site to advise her. Embassy reporting noted:

As [Consular Officer] began the story, Ms. Harbury interrupted almost immediately, maintaining that: (a) the article in the newspaper was false and the ex-guerrilla who had made the statements in the article told her (on videotape) that he had never been interviewed and the article was a "plant"; and (b) she was already aware of the guerrillas buried in Coatepeque and they had been killed in a different firefight, not far from the site of her husband's firefight, two weeks earlier or later in March. (She said she remembered that it was different fights because her husband was very upset to learn that his friend, De La Mora, was killed but almost in the same sentence, she said she couldn't remember if De La Mora or her husband was killed first.) She also later said that the article, which she remembers as being from August, did not say anything about De La Mora and Bamaca being killed together, and that she has never seen an article which refers to that.

143. The Embassy added that Harbury said she was not willing to attend another fruitless exhumation and she is convinced that this one would be. She indicated that she would thank the judge for his good intentions but put the record straight the following day in court. The Embassy noted that the ACS Consular officer would accompany Harbury to court.

144. 

145. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

146. [REDACTED]
[REDACTED]

147. November 3, 1994 [REDACTED] Report. [REDACTED]

[REDACTED] reported that guerrillas who were captured and interrogated by the Army for information of intelligence value were given two choices once the interrogation is complete. First, they may enlist in the Army to work for the D-2 against the units to which they formerly belonged. Once their usefulness has been fully exploited by the D-2, they would be assigned to other jobs, depending on their skills and capabilities. Alternatively, those who refused to integrate into the Army were summarily shot and buried in unmarked graves.

[REDACTED] emphasized that the Army did not take prisoners of war, nor did the URNG. [REDACTED] elaborated that the Army did not believe it was violating human rights by killing guerrillas, because the guerrillas know that by engaging in open warfare against the Guatemalan Army they face death.

148. [REDACTED] to the best of his knowledge, the Army did not have Bamaca in custody and opined that if the Army did know where Bamaca was, whether dead or alive,

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149. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

150. The Station responded to Headquarters the same day, confirming that it was tasking [REDACTED] for information on the Bamaca case and clandestine jails and noting that information would be reported in appropriate channels as it was received. Station officers were tasked to obtain any and all information on the Bamaca case for reporting [REDACTED]
[REDACTED]

[REDACTED]

151. [REDACTED]
[REDACTED]

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[REDACTED]

[REDACTED]

152.

[REDACTED]

[REDACTED]

153.

[REDACTED]

the Station believed it should be noted that the critical element of the May 2, 1994 intelligence report [REDACTED] that Bamaca had been captured alive [REDACTED] appeared to be corroborated by the March 18, 1992 intelligence report from [REDACTED] Bamaca had been lightly wounded and was cooperating with his captors.

154.

[REDACTED]

[REDACTED]

155.

[REDACTED]

156.

[REDACTED]

157.

[REDACTED]

158. November 4, 1994 Agency Analysis. [REDACTED] recalls that the November 4 analysis, which he drafted, was initiated based on additional reporting from the Station and included information from both the October 24 analysis and an October 28 intelligence report that indicated that Bamaca had been captured in March 1992 and brought to a military camp in San Marcos. As was true at the time of the October 24 analysis, [REDACTED] was unaware of the March 18, 1992 report that Everardo had been captured alive and was cooperating fully with his captors. [REDACTED] had also not yet learned of the allegation that Alpirez had been present at the interrogation of DeVine [REDACTED]
[REDACTED]
[REDACTED]

159. The November 4 analysis summarized the Agency's reporting on Bamaca, except for the as-yet-undiscovered March 18, 1992 intelligence report, and noted that "the reports also contain second- and third-hand allegations that Bamaca was captured alive,
[REDACTED]

160. On November 4, 1994, the analysis was disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,
Central American Affairs, State;
Director, Office of Central American Affairs, State;
Special Assistant to the Secretary of State;
Guatemala Desk Officer, State; and
Guatemala INR Analyst, State.

161. November 4, 1994 Agency Briefing of SSCI Staff. On November 4, 1994, Agency officers from the DO and the DI, including [REDACTED] met with SSCI staff members [REDACTED]

[REDACTED] to review the Agency's information on Bamaca. In response to questioning about the Agency's collection efforts, DO officers advised that LA Division was searching Headquarters files and the Station was tasking all available assets to clarify information about Bamaca, as well as to elicit additional information. [REDACTED] the primary briefer, recalls that the briefing was derived from the intelligence reporting that was discussed in his November 4 analysis, a copy of which was provided to the SSCI staff members at their request.

162. November 4, 1994 Intelligence Report. [REDACTED]

[REDACTED] a Station officer obtained information [REDACTED] pertaining to the role of a [REDACTED] Guatemalan [REDACTED] in Quetzaltenango in 1992, in the apparent death of Bamaca. [REDACTED]

[REDACTED] on March 12, 1992 [REDACTED] had an armed encounter with a group of insurgents. Two insurgents were killed during the encounter, including one who appeared to be an insurgent commander due to his American camouflaged uniform, new boots, radio, and the weapon he carried. The insurgent carried no identification and [REDACTED] could not identify the insurgent [REDACTED]

163. [REDACTED] reported the casualties to the local authorities and the human rights representatives in Quetzaltenango, and assumed they took care of burying the bodies. A month after the armed encounter, [REDACTED] was informed that [REDACTED] had killed Everardo during the March 12 encounter. [REDACTED]

[REDACTED] was now certain that the insurgent commander [REDACTED] killed was not Everardo. [REDACTED]

164. [REDACTED] commented that it was possible the Army substituted the body of the dead insurgent commander for that of Everardo who apparently was killed in a separate location. This would be a way of covering up any evidence of torture that may have been used on Bamaca.

165. The Station sent this information to Headquarters on November 4, 1994. [REDACTED]
[REDACTED]
[REDACTED]

166. [REDACTED]
This information was disseminated [REDACTED] on November 4, 1994:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
Department of Energy Headquarters, Intelligence Officer (DOEHQ/IN); and
Intelligence Units of the Army, Navy, Marine Corps, and Air Force.

167. [REDACTED]
[REDACTED]

168. November 1994 Station Report. [REDACTED]

[REDACTED] said he knew of [REDACTED]
[REDACTED]
[REDACTED] to the travel to Washington of a former ORPA guerrilla who knew Bamaca well. Reportedly, the former ORPA guerrilla planned to testify before the U.S. Congress that Harbury was never

with Bamaca for any length of time other than an interview she had with him at an ORPA encampment. [REDACTED]

[REDACTED] This information was not further disseminated.

169. November 7, 1994 [REDACTED] Report. The [REDACTED] obtained information on [REDACTED]

[REDACTED] reported that Bamaca received a relatively minor wound in one arm during a firefight with the Guatemalan Army outside of Retalhuleu in March 1992. He was captured and initially interrogated there. During the initial interrogation, it was determined that he knew more about ORPA activity in San Marcos than he did about guerrilla activities in and around Retalhuleu. The G-2 in Military Zone 18 was advised and requested that Bamaca be moved from Retalhuleu to San Marcos for in-depth interrogation.

170. The G-2's request was approved by the D-2's Military Intelligence (MI) Division, which had responsibility for collecting intelligence on the different guerrilla organizations. The San Marcos G-2 was informed that he would report directly to the MI Division on all issues regarding Bamaca. Bamaca was moved to San Marcos and [REDACTED]

[REDACTED] added that security regarding Bamaca was of the highest priority because of his importance to the Army, based on his position within ORPA and because he was thought to be an extremely intelligent individual who was constantly attempting to escape. Bamaca proved to be such a problem, [REDACTED] that he was encased in a complete body cast as if he had received numerous fractures or broken bones, in order to control him and prevent him from attempting to escape.

171. During the approximate month that Bamaca was held in San Marcos, [REDACTED] reported, he underwent two or three extensive interrogations at the hands of interrogators from the MI Division. While Bamaca freely talked and provided information about ORPA activities and personnel, he constantly provided false information regarding arms caches. This eventually led the MI Division chief to decide that Bamaca was no longer of any value. An order was issued by the MI Division to the Military Zone that Bamaca was to be killed. To facilitate this action, the MI Division sent a D-2, not a Guatemalan Air Force, helicopter and Bamaca was loaded alive onto the helicopter. [REDACTED] was disseminated on November 7, 1994, via the [REDACTED] and faxed to the Agency on November 10.

172. [REDACTED] Agency Briefing of HPSCI Staff. On [REDACTED] Agency officers from the DO and the DI, including [REDACTED] briefed members of the HPSCI staff on reporting relating to the case of Bamaca. A Department of State liaison officer was also in attendance. Referring to [REDACTED] disseminated reports from early 1993, [REDACTED] provided a chronology of the reported capture and possible torture and internment of Bamaca. Concluding that the Agency had no information on the current status of Bamaca or on his possible death, the DO officers advised that they were attempting to obtain more recent information [REDACTED] on Bamaca's fate.

173. The memorandum documenting the briefing, prepared by the Agency's Office of Congressional Affairs, indicated that HPSCI staff members [REDACTED] [REDACTED] were present, appeared satisfied with the briefing and had no further questions on the Bamaca case.

174. [REDACTED] the primary briefer, believes that he provided the most current information available to him, but he is uncertain whether he included in the briefing information derived from the November 4, 1994 intelligence report that included the account of the [REDACTED] Guatemalan [REDACTED] who had been told in April 1992 that [REDACTED] had killed "Commandant Everardo." [REDACTED] is certain, however,

that his briefing of the HPSCI staff included, "at the very least," information derived from his November 4 analysis. [REDACTED] recalls that the key topics for discussion centered around Bamaca's fate and whether clandestine prisons existed. [REDACTED]
[REDACTED]
[REDACTED]

175. November 1994 Discovery of March 18, 1992 Intelligence Report. Sometime between November 4 and November 8, 1994, [REDACTED] DI/ALA supervisor, initiated [REDACTED] search of DO intelligence reports, using as criteria the names of Bamaca and Everardo, this time spelled correctly. [REDACTED] search retrieved the March 18, 1992 intelligence report and it was subsequently included in all DI analyses published after November 4. [REDACTED] apprised LA Division of the March 18, 1992 report and LA Division faxed a copy of the report to the Station on November 7, 1994. According to the Station reports officer, the Station had no knowledge of the existence of the report until this transmittal of it from LA Division.

176. November 8, 1994 Agency Analysis. [REDACTED] recalls that the November 8 analysis, which he drafted, was initiated based on additional reporting from the Station and included information from both the November 4 analysis and the November 4 intelligence report indicating that a [REDACTED] Guatemalan [REDACTED] had been told in April 1992 that [REDACTED] had killed "Everardo." By this time, [REDACTED] had become aware of the March 18, 1992 intelligence report and it was included in the November 8 analysis. However, [REDACTED] had still not learned of an October 1991 report that Alpirez had been present at DeVine's interrogation [REDACTED]
[REDACTED]
[REDACTED]

177. The November 8 analysis summarized the Agency's reporting on Bamaca, [REDACTED]
[REDACTED]
[REDACTED] Concerning Bamaca's fate, the analysis noted that the evidence pointed to the likelihood that Bamaca was captured alive in March 1992, but added:

However, we have no reliable information to ascertain whether he is still alive and being held in a clandestine military prison. The last alleged sighting of Bamaca--provided by the testimony of two guerrilla escapees--was in July 1992. Although the Army would have a strong incentive to keep him alive--for his supposed knowledge of ORPA's structure and personnel--and turn him against his former comrades, he may well have died of battlefield wounds and been buried in an as-yet-unidentified grave. The Army also could have executed Bamaca after it extracted from him whatever useful information it sought. The Army, for its part, remains very tight-lipped about this and other similar cases, and is unlikely to open up to a full inquiry on the subject.

178. On November 8, 1994, the DI/ALA analysis was disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,
Central American Affairs, State;
Director, Office of Central American Affairs, State;
Special Assistant to the Secretary of State;
Guatemala Desk Officer, State; and
Guatemala INR Analyst, State.

179. November 9, 1994 Intelligence Report. [REDACTED]

[REDACTED] advised a Station officer that [REDACTED]
[REDACTED] told a gathering [REDACTED] that the
URNG had prompted international attention concerning the Bamaca
case as a means of weakening the Guatemalan Government after the
URNG suffered a severe blow because of the Government's
agreement to establish a Human Rights Truth Commission.
[REDACTED] added that [REDACTED] said that the Bamaca
case was closed as far as the Government and [REDACTED]
concerned.

180. [REDACTED]

[REDACTED] The information was disseminated [REDACTED]
[REDACTED] on November 9 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
Intelligence Units of the Army, Navy, Marine Corps; and
Air Force

181. [REDACTED]

182. November 9, 1994 Intelligence Report.

the Station obtained information [REDACTED] that [REDACTED] said he believed the Bamaca case had been fully resolved until Harbury resurfaced in Guatemala claiming to have been the wife of the dead guerrilla. According to [REDACTED] Harbury had been present during the exhumation of what was believed to be Bamaca's body. Harbury said at the time that she was an international human rights lawyer and had not spoken out when questions were asked concerning whether any members of the Bamaca family were present. [REDACTED] alleged that Harbury claimed to be Bamaca's wife only when she later returned to Guatemala. A [REDACTED] comment included by the Station noted that [REDACTED] was presumably referring to the first exhumation in May 1992 that was stopped by the Attorney General when no family member was identified as present.

183.

[REDACTED]

184. [REDACTED]

[REDACTED] The information was
disseminated [REDACTED] on November 9, 1994 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
Intelligence Units of the Army, Navy, Marine Corps, and
Air Force.

185. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

186. November 10, 1994 Intelligence Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED]
concerning remarks by MOD Enriquez [REDACTED]
[REDACTED] during the monthly [REDACTED]
[REDACTED] meeting in Guatemala City. According to
[REDACTED] Enriquez told [REDACTED] that the
Bamaca case entails one of the greatest political efforts undertaken by
the URNG. In describing his discussions with Harbury, Enriquez
said Harbury threatened him, saying if she discovered her husband
had been mistreated, the first goal of her protest would be to seek the
cessation of Guatemalan access to United States non-traditional
export markets. If need be, she would work for worse sanctions as

well. Enriquez added that Harbury intended to dismiss as erroneous all information on her husband provided by military officials associated with Bamaca's capture and told him she would call on Colonel Alpirez, Colonel Perez Solarez and Major Sosa Orellana if the Army did not produce her husband.

187. This information was disseminated [REDACTED]
[REDACTED] on November 10, 1994 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
USCINCSOC Intel Ops Center MacDill AFB;
COMJSOC; and
Intelligence Units of the Army, Navy, Marine Corps, and
Air Force.

188. [REDACTED]
[REDACTED]
[REDACTED]

189. [REDACTED]
[REDACTED]

[REDACTED]

190. [REDACTED]

[REDACTED]

[REDACTED]

191. [REDACTED]

[REDACTED]

[REDACTED]

192. [REDACTED]

[REDACTED]

193. November 14, 1994 [REDACTED] Report. On [REDACTED]
[REDACTED] many Guatemalan Army officers
believed that the U.S. Government, through its public display of
support for Harbury, had changed its policy regarding Guatemala's

internal conflict and supported the position of the URNG. Regarding the whereabouts of Bamaca, [REDACTED] said that Bamaca was dead and, when asked if the Guatemalan Government could produce his remains, responded that Bamaca's remains were in a place that "makes it impossible to recover them." [REDACTED] unwilling to answer the question directly. The [REDACTED] report was disseminated to DIA on November 14, 1994 and made available to Agency Headquarters on March 23, 1995.

194. November 14, 1994 [REDACTED] Report. On [REDACTED]

[REDACTED] that Bamaca was interrogated during his time in San Marcos, principally by G-3 Major Soto Bilbao and G-2 Major Sosa Orellana, who were assisted by two unidentified military doctors assigned to the infirmary at Zone 18 Headquarters. [REDACTED] said that the doctors provided the necessary drugs used in the interrogations. [REDACTED] said that Bamaca was such a special prisoner that, when he was moved to the military infirmary for care, the infirmary was cleared of all patients and other personnel to preclude anyone from identifying him. The majority of the officers assigned to the Military Zone 18 Headquarters level were aware that Bamaca was being held in a cell in the G-2.

195. During Bamaca's incarceration at Military Zone 18, [REDACTED] visited Zone 18 an unusual number of times, presumably to coordinate with those conducting the interrogation of Bamaca. According to [REDACTED] [REDACTED] noted that Bamaca was not a cooperative prisoner and did attempt to escape, thereby forcing the Army to incapacitate him in a full body cast. [REDACTED] said that during the prior few weeks Army officers had noticed that ex-guerrillas who were coopted and working for the Army had been noticeably absent and further speculated that their disappearance was probably linked to a decision by Army leadership to kill the ex-guerrillas.

196. The DAO report included a comment [REDACTED] noting that [REDACTED] had no information to suggest that other former guerrillas had recently been killed by the Army or that such a decision had been made by the high command. [REDACTED] doubted that the Army would risk such an action in the highly charged human rights climate in Guatemala. It was precisely to preclude this possibility, according to a comment added by the Embassy, that Ambassador McAfee raised the issue of deserters' protection with President De Leon on November 11, 1994. The [REDACTED] report was disseminated on November 14, 1994, via [REDACTED] [REDACTED] It was later provided to the Agency in March 1995.

197. November 15, 1994 Intelligence Report. [REDACTED]

198. [REDACTED]

[REDACTED] the Station requested Headquarters advice regarding whether and how the information should be disseminated. The Station also provided a classified memorandum to Ambassador McAfee [REDACTED] advising her of [REDACTED] reporting. Headquarters responded [REDACTED] advising the Station to resubmit the information in an "Exclusive for" format.

199. [REDACTED]
The Station sent the information to Headquarters on November 15,

1994, and it was disseminated [REDACTED] that same day to:

U.S. Embassy, Guatemala (principal officers only);
Exclusive for Director, White House Situation Room;
Exclusive for Assistant Secretary, INR and the
Assistant Secretary, Diplomatic Security, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

200. [REDACTED]
[REDACTED]
[REDACTED]

201. November [REDACTED] 1994 Intelligence Report. [REDACTED]

[REDACTED] that it was unlikely that the Bamaca case would ever be resolved to Harbury's satisfaction. [REDACTED]

[REDACTED] said Bamaca was dead and that Harbury's efforts to draw international attention to the case would only serve to bring condemnation upon the Guatemalan Government and strain relations between Guatemala and the international community.

202. The Station sent this information, [REDACTED]

Headquarters on November [REDACTED], 1994. It was disseminated [REDACTED] on November [REDACTED] to:

[REDACTED]

[REDACTED]

203.

[REDACTED]

[REDACTED]

[REDACTED]

204.

[REDACTED]

[REDACTED]

205.

[REDACTED]

[REDACTED]

[REDACTED]

206. [REDACTED]

[REDACTED]

207. November 17, 1994 Agency Analysis. [REDACTED] recalls that the November 17 analysis, which he drafted, was initiated to provide an update of Bamaca-related information. It included information [REDACTED]

[REDACTED] that Bamaca had been taken away from San Marcos in April 1992 and was never seen again [REDACTED]

208. The November 17 analysis summarized the Agency's reporting on Bamaca and reiterated the conclusions in the November 8 analysis [REDACTED]

[REDACTED] The November 17 analysis also indicated that, while the evidence pointed to the likelihood that Bamaca was captured alive in March 1992, there was no reliable information to ascertain whether Bamaca was still alive and being held in a clandestine military prison.

209. On November 17, 1994, the DI/ALA analysis was disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,
Central American Affairs, State;
Director, Office of Central American Affairs, State;
Special Assistant to the Secretary of State;
Assistant Secretary (AS), INR, State;

Guatemala Desk Officer, State;
Guatemala INR Analyst, State;
Director, NSA;
Director, DIA; and
Director (J-2), Pentagon.

210. November 17, 1994 Intelligence Report. [REDACTED]

[REDACTED] obtained information [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] that the URNG had been manipulating the Bamaca case for its propaganda value and to drive a wedge between the Guatemalan and U.S. Governments. [REDACTED]

[REDACTED] a few months after the March 12, 1992 capture or death of Bamaca, URNG intelligence, [REDACTED] sent messages to Bamaca's American wife via a URNG front organization. These messages indicated that the URNG had information that Bamaca had been detained by the Guatemalan military and was being tortured. For months thereafter, URNG intelligence continued to send information to Bamaca's American wife insisting Bamaca was still alive. In reality, [REDACTED]

[REDACTED] the URNG had no factual information regarding Bamaca after March 12, 1992. The URNG information sent to Bamaca's American wife was completely fabricated, and the URNG believed Bamaca probably is dead.

211. [REDACTED]

[REDACTED] URNG intelligence was convinced that, in the slim chance that Bamaca was alive, his continued survival would have depended solely on his having given information to the Guatemalan military. Thus, if Bamaca were alive, it was because he is a traitor to the URNG. [REDACTED]

Bamaca alive would be very dangerous to the URNG as he was among the highest ranking URNG members ever taken by the Guatemalan military, and his intelligence value would have been high. [REDACTED] that URNG intelligence believed that, if Bamaca were alive, the Guatemalan military would have killed him

after Bamaca's U.S. wife began demonstrating and the Guatemalan Government and military had informed the U.S. Government that Bamaca had been killed in March 1992. [REDACTED] if Bamaca were alive, the URNG's objective was to have the U.S. wife's activities force the Guatemalan military to kill him and remove him as a threat to the URNG.

212. [REDACTED]
[REDACTED]
[REDACTED] the report was coordinated, [REDACTED]
[REDACTED] with Ambassador McAfee, DCM Keane and visiting Assistant Secretary of State Shattuck. [REDACTED]
[REDACTED]
[REDACTED]

213. The information was disseminated [REDACTED]
[REDACTED] on November 17, 1994 to:

[REDACTED]

214. [REDACTED]
[REDACTED]



215. November 18, 1994 Agency Analysis. [REDACTED] recalls that the November 18 analysis, which he drafted, was initiated at the specific request of the Department of State. Rather than focusing on Bamaca's fate exclusively, the November 18 analysis assessed Harbury's hunger strike and the Bamaca case in general from the perspective of the Guatemalan Government and press. The analysis concluded that the Guatemalan Government, persuaded that the guerrillas were managing the case and that international attention represented foreign meddling, would be highly resistant to pressures to investigate the charges of human rights abuse more fully. The analysis also indicated that,

Guatemala probably will, therefore, continue to hold to its story and withstand any U.S. pressure—even sanctions. The military will be even less responsive to direct U.S. pressure since military aid was halted in 1990. Guatemala could even react to U.S. demands on the Bamaca case by questioning U.S. motives and limiting the U.S. role in the peace process—where the United States has gained leverage by building its credibility as a fair and impartial interlocutor.

216. On November 18, 1994, the DI/ALA analysis was disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,
Central American Affairs, State;
Director, Office of Central American Affairs, State;
Special Assistant to the Secretary of State;
AS, INR, State;
Guatemala Desk Officer, State;
Guatemala INR Analyst, State;
Director, NSA;

Director, DIA; and
Director (J-2), Pentagon.

217. November 18, 1994 Intelligence Report.

[REDACTED] the Station obtained information [REDACTED]
[REDACTED] that a [REDACTED] Guatemalan [REDACTED] had said
that Bamaca offered no resistance to an Army patrol during his
capture on March 12, 1992. The Army patrol subsequently turned
Bamaca over to the G-2 in San Marcos Department. Bamaca was held
in San Marcos and in Santa Ana Berlin, Quetzaltenango Department,
[REDACTED]
[REDACTED] had told
[REDACTED] that Bamaca [REDACTED] was not
tortured. Further, [REDACTED] added that the capture of Bamaca was
significant, [REDACTED]
[REDACTED]
[REDACTED]

218. [REDACTED]

[REDACTED] The Station sent this information to Headquarters on
November 18, 1994. It was disseminated [REDACTED]
the same day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
Intelligence Units of the Army, Navy, Marine Corps, and
Air Force.

219. [REDACTED]

[REDACTED]

220. [REDACTED]

[REDACTED]

221. [REDACTED]

[REDACTED]

222. November [REDACTED] 1994 Station Report. [REDACTED]

[REDACTED] said that his guess,
[REDACTED] was that Bamaca
was probably wounded when captured and may have died of these
wounds while being interrogated in captivity. The military may then
have disposed of his body in an unmarked grave and is thus unable

it

[illegible]

[REDACTED]

[REDACTED]

225. November 23, 1994 Intelligence Report. [REDACTED]

[REDACTED]

[REDACTED]

226. [REDACTED]

[REDACTED] The Station sent the information
to Headquarters on November 23, 1994. It was disseminated
[REDACTED] the same day to:

U.S. Embassy, Guatemala (principal officers only);
Exclusive for Director, White House Situation Room;
Exclusive for the Assistant Secretary, INR, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury;
Exclusive for USCINCSO; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

~~SECRET~~

227. [REDACTED]

228. November 23, 1994 [REDACTED] Report. [REDACTED]

[REDACTED] had been ordered to recheck its files and remove and destroy any incriminating evidence that could be used to identify or help trace individuals who might be viewed as responsible for any activity that could be deemed illegal in any way. [REDACTED] that action had already been taken at the Southern Air Base in Retalhuleu. In addition to the removal of all incriminating files, the facilities that were used in the early-to mid-1980's as "interrogation" areas had been totally demolished and pits that were used to bury guerrillas had been filled and covered over with cement. The [REDACTED] information was disseminated to DIA on November 23, 1994 and made available to Agency Headquarters the following day.

229. November 25, 1994 [REDACTED] Report. [REDACTED]

that many Guatemalan junior officers assigned to an interior military zone suspected the U.S. Government of abandoning the idea of being an impartial party in ongoing peace talks and favoring the URNG as a result of the Bamaca case. [REDACTED]

[REDACTED] opined that both the President and Army high command had totally mishandled the Bamaca case as the Guatemalan Government strategy appeared to be focused on discrediting Harbury as opposed to conducting an investigation that would lay the matter to rest once and for all. On the subject of Bamaca's fate, [REDACTED] [REDACTED] knew nothing about Bamaca and believed, [REDACTED] that Bamaca died as a result of wounds shortly after the firefight in March 1992. [REDACTED]

[REDACTED] information was disseminated to DIA on November 25, 1994 and made available to Agency Headquarters the following day.

230. December 2, 1994 Intelligence Report. [REDACTED]

[REDACTED] was met [REDACTED] and asked to provide further details relative to the March 18, 1992 report that Everardo had been captured alive and was cooperating with his captors. [REDACTED]

[REDACTED] offered no new details relative to the initial report and claimed that he had no specific knowledge of what happened to Bamaca at that point nor did he have information on Bamaca's whereabouts or that of his remains. [REDACTED] promised to pass along additional details of the Bamaca case if and when they became available [REDACTED]

231. [REDACTED] information was obtained [REDACTED] that Bamaca was captured unharmed or lightly wounded around March 12, 1992. According to [REDACTED] Bamaca might have been alive four to five weeks after his capture [REDACTED] Ortega opined that Bamaca was killed by the Guatemalan Army once he had outlived his usefulness. [REDACTED] claimed that as an uneducated peasant Bamaca would have had little to offer other than what he could have produced in his initial debriefings. According to [REDACTED] Bamaca's high-level position in ORPA was not discovered until long after his death. [REDACTED]

232. On November [REDACTED] 1994, the Station obtained information [REDACTED] that a [REDACTED] Guatemalan [REDACTED] had said that Bamaca was captured alive in March 1992 but was now dead. [REDACTED] stated [REDACTED] that the officer who was in charge of the interrogation of Bamaca was Colonel Julio

Roberto Alpirez, the then-Third Commander of Military Zone 18.

[REDACTED]

[REDACTED] offered no information on how he knew Bamaca had died, where he might be buried, or whether he had been tortured.

233. [REDACTED]

[REDACTED]

234. [REDACTED]

[REDACTED] The Station sent the information [REDACTED] to Headquarters on December 1, 1994. It was disseminated [REDACTED] the following day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
DOEHQ/IN; and
Intelligence Units of the Army, Navy, Marine Corps, and
Air Force.

235.

236.

237.

238.

[REDACTED]

239. [REDACTED]

[REDACTED]

240. The Station sent the information to Headquarters [REDACTED]
[REDACTED] including a Station comment that the U.S. citizen
referred to [REDACTED]
[REDACTED] was likely Clifford Bevens who was kidnapped in December
1980, held for ransom, and later found dead in territory that is the
traditional operating area of ORPA, Bamaca's former URNG faction.

241. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

242. [REDACTED]

[REDACTED]

243. December 8, 1994 [REDACTED] Report. [REDACTED]

that the Guatemalan Army's press office was responsible for coordinating a visit by a group of Guatemalan journalists to the site of a firefight with ORPA guerrillas at Nuevo San Carlos on the afternoon of March 12, 1992. According [REDACTED] the journalists were shown two bodies and told that one of the two was that of a guerrilla platoon lieutenant named Efrain Bamaca Velasquez. The journalists examined a diary reportedly taken from Bamaca's body and then photographed the body before a civil judge was brought to the site to make an official record of the incident and the guerrillas' deaths. [REDACTED] all information pertaining to the guerrillas was provided to then-Guatemalan Human Rights Ombudsman De Leon, as was normal procedure at the time. The [REDACTED] report was disseminated to DIA on December 8, 1994, but was not made available to Agency Headquarters until March 23, 1995.

244. December 12, 1994 Station Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED] pertaining to a clandestine burial site. [REDACTED]

[REDACTED] said that bodies were disposed of in a fresh water well on a farm in San Pablo. The well contained bodies of several guerrillas from Bamaca's unit but not Bamaca's body. [REDACTED] Major Raul Oliva Germeno, along with Alpirez and Colonel Leonel Godoy, all worked with Bamaca after his capture in the San Marcos area, [REDACTED]

[REDACTED] did not know whether Bamaca was alive or dead. He assured [REDACTED] however, that Bamaca was not killed in San Marcos.

245. The Station sent the information to the DO at Headquarters on December 12, 1994. [REDACTED]
[REDACTED]
[REDACTED]

246. There is no record that this information was ever disseminated [REDACTED] the Station provided a classified memorandum [REDACTED] [REDACTED] advising [REDACTED] of the possible location of a clandestine burial site and its plans to obtain additional information. There was no mention in the memorandum, however, of the three Guatemalan officers, including Alpirez, who reportedly "worked with" Bamaca after his capture. There was no further dissemination of [REDACTED] information.

247. December 22, 1994 Intelligence Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED]
[REDACTED]
[REDACTED] mentioned a "surprise" inspection of military facilities that had been conducted on December 1 by representatives of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA), looking for Bamaca and evidence of the existence of clandestine prisons. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] According to [REDACTED] neither Bamaca nor evidence of clandestine prisons was found as a result of the inspection.

248. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

249. [REDACTED]

[REDACTED]

[REDACTED]

250. [REDACTED]

[REDACTED] The information was sent to Headquarters by the
Station on December 21, 1994, [REDACTED]

[REDACTED]

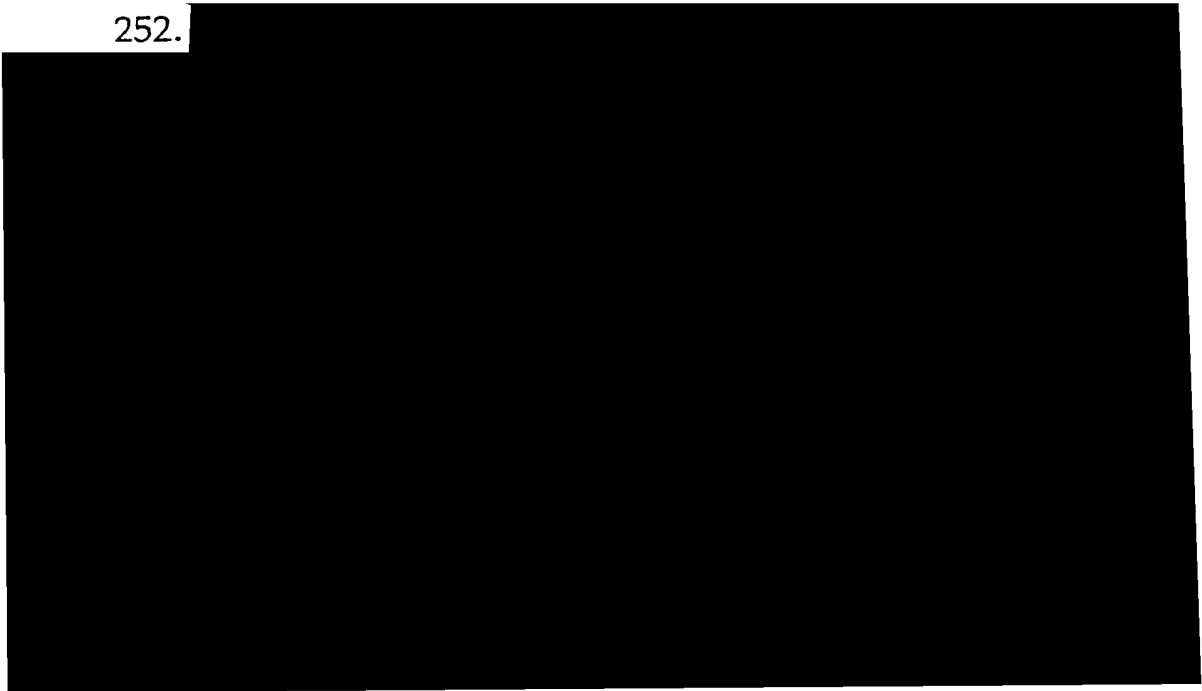
251. The information, [REDACTED]

[REDACTED]

[REDACTED] was disseminated [REDACTED] the
following day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO; and
Intelligence Units of the Army, Navy, Marine Corps,
and Air Force.

252.



253.



[REDACTED]

254.

[REDACTED]

[REDACTED]

255.

[REDACTED]

256.

[REDACTED]

[REDACTED]

257. January 25, 1995 Intelligence Report. [REDACTED]

[REDACTED] had been advised by a Guatemalan [REDACTED] that he had been told by others that Bamaca had been killed by Alpirez. [REDACTED]

[REDACTED] that it was known within the senior ranks of the Army that Alpirez was the individual who killed Bamaca, but that senior ranking officers had decided not to do anything with the information. [REDACTED]

[REDACTED]

258. The Station sent this information to Headquarters late on the evening of January 24, 1995. It was disseminated [REDACTED] on January 25 to:

[REDACTED]
Exclusive for Director, White House Situation Room;
Exclusive for Assistant Secretary, INR, and
Assistant Secretary, Diplomatic Security, State;
Exclusive for Director, NSA;
Exclusive for Director, DIA;
Exclusive for Special Assistant to Secretary, Treasury;
Exclusive for USCINCSO; and
Exclusive for Intelligence Chiefs of the Army, Navy,
Marine Corps, and Air Force.

259. [REDACTED]

[REDACTED]

[REDACTED]

260. [REDACTED]

[REDACTED]

261. January 26, 1995 NSC Meeting. On January 26, the first of four meetings between NSC and CIA personnel was held to discuss the January 25 intelligence report and how it could be used in a demarche to the Guatemalan Government. According to a memorandum regarding the meeting prepared by [REDACTED]

[REDACTED] the meeting was attended by him, the Deputy Chief of LA Division [REDACTED] NSC members Richard Feinberg, George Tenet, and Chat Blakeman, State Department DAS for ARA/CEN Anne Patterson, Colonel Richard Wilhelm from the Office of the Vice President, and a DoJ official. At this meeting, the CIA representatives expressed concern about the need to provide early notification on the information to the intelligence oversight committees in Congress. The NSC members asked CIA to defer

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temporarily any notification of the oversight committees to permit policymakers to develop their strategy and prepare a demarche for the U.S. Ambassador to present to the Guatemalan Government.

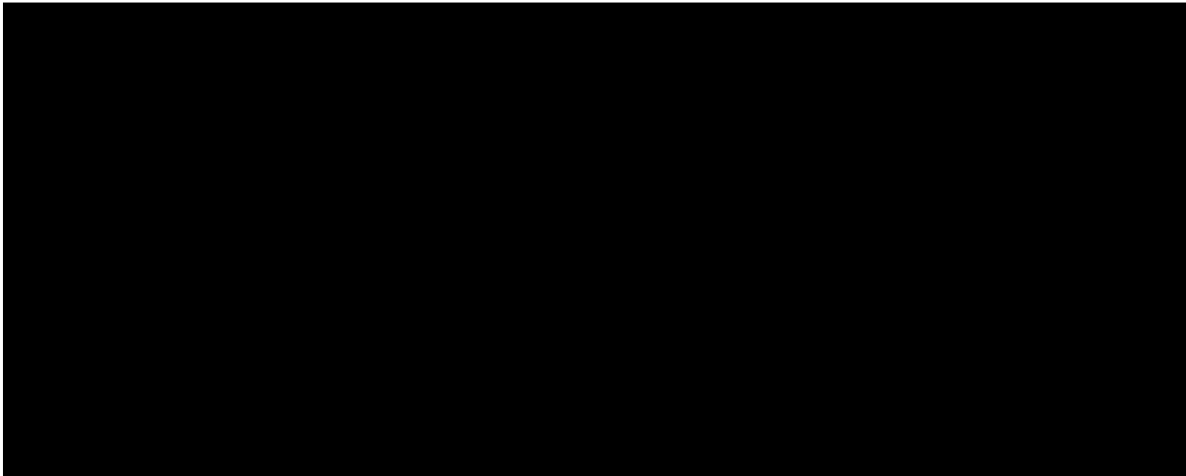
262. Also at the first meeting with NSC officials, Feinberg asked, among other things, for an analysis of all available data that linked Alpirez to Bamaca's death. [REDACTED]

[REDACTED]

263. January 27, 1995 Agency Analysis. The analysis was produced on January 27 by [REDACTED] the Chief of the [REDACTED] in the [REDACTED] Division of the DI's Office of African and Latin American Analysis (ALA). In this analysis, [REDACTED] wrote, "We have no firsthand accounts of Bamaca's fate, but have received a number of reports indicating that he was captured alive and killed while in custody of the military. There is significant circumstantial evidence to suggest that Alpirez was at least the intellectual author of Bamaca's death." To support this statement, [REDACTED] referred to the January 25, 1995 intelligence report stating that it was known within the senior military ranks that Alpirez had killed Bamaca; the December 2, 1994 intelligence report stating that Alpirez had taken charge of Bamaca's interrogation; and the May 2, 1994 intelligence report in which Alpirez, [REDACTED] [REDACTED] had interviewed Bamaca after his capture until the D-2 took him away.

264. [REDACTED]

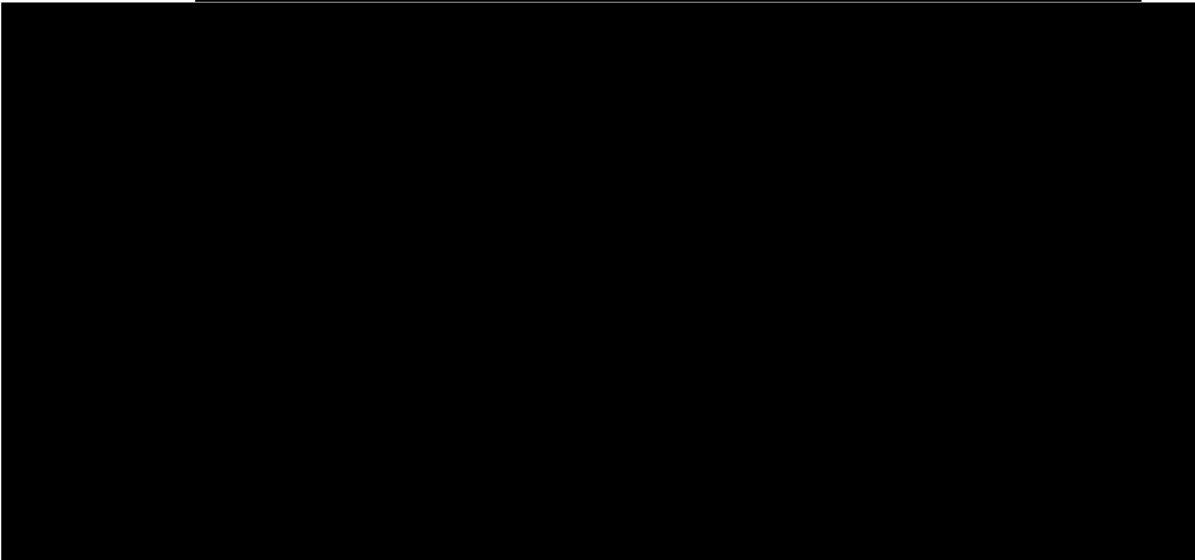
[REDACTED]



265. January 27, 1995 NSC Meeting. A second meeting was held at the NSC on January 27 and attended by [REDACTED] Feinberg, Blakeman, Patterson, and Wilhelm. NSC and State had reviewed the January 27 Agency analysis, and the attendees reviewed the draft language for a demarche prepared by State's Patterson. The language was approved pending clarification [REDACTED]

[REDACTED] again raised CIA concerns about the need to notify the oversight committees, and the other attendees asked that CIA defer notification in order to permit policymakers to complete their strategy and allow the demarche to go forward.

266. [REDACTED]



267. January 30, 1995 Embassy Telegram. A January 30, 1995 message from Ambassador McAfee to State pointed out that the information in the January 25 report was second-hand and possibly no more than a rumor. She stressed the need for corroboration before acting on it. She asked that past reporting concerning Bamaca be taken into account, questioned the conclusions in [REDACTED] January 27 analysis and included a review of earlier reporting concerning Bamaca. McAfee referred to Alpirez's negative reputation, but questioned whether he could be condemned for having killed Bamaca solely on the basis of one report. Further, she pointed out that Alpirez was unpopular within the Army and noted the possibility that he was being set up as a scapegoat. She also expressed concern about [REDACTED] welfare and about damage to the peace process in Guatemala if a demarche were issued. Finally, she asked that [REDACTED] be consulted as to how a demarche would affect him and requested that the allegations be investigated before a demarche was made.

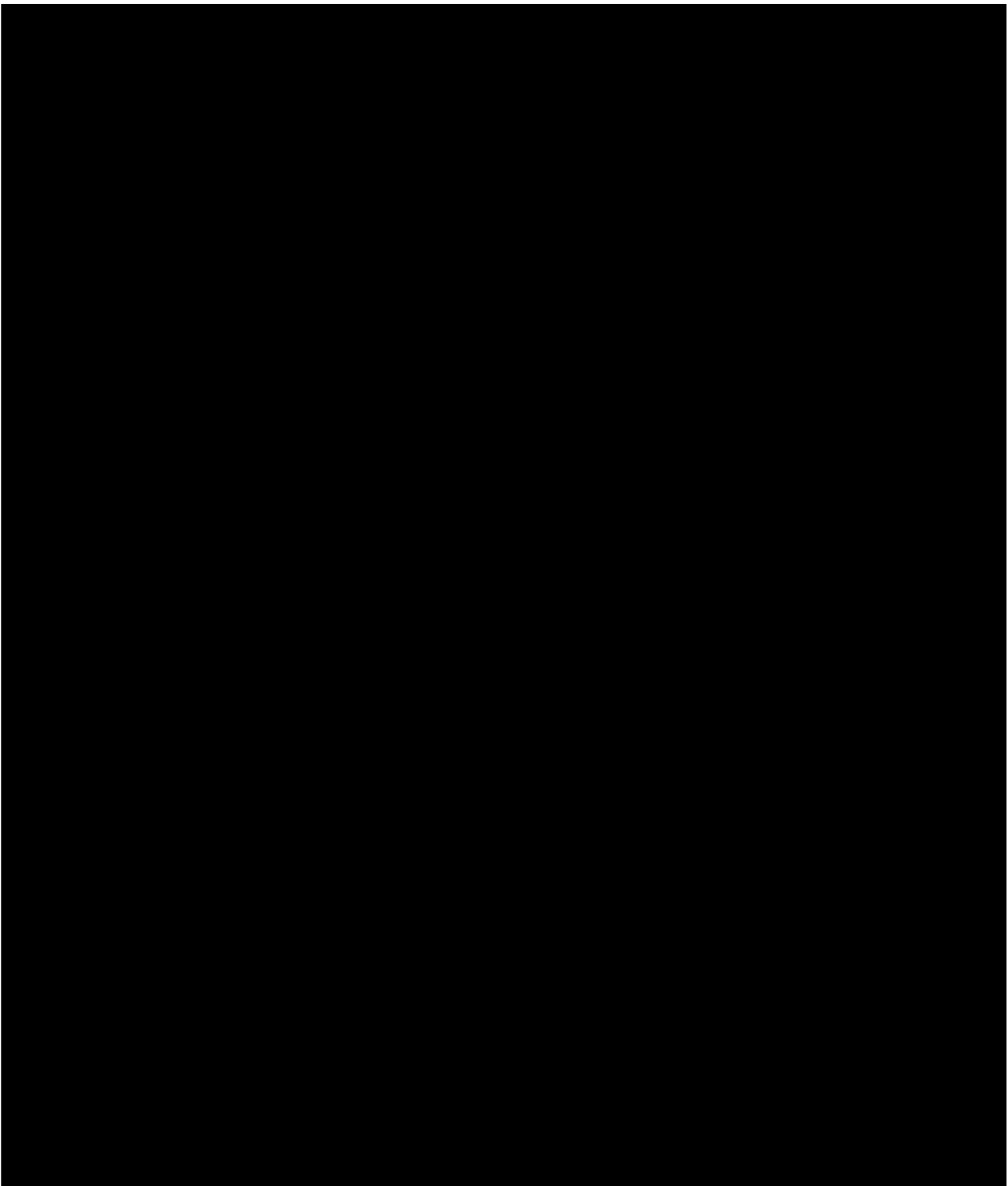
268. January 30, 1995 NSC Meeting. A third meeting was held on January 30 and attended by [REDACTED] Feinberg, Blakeman, Bruce Pease of the NSC, Director of State Department's Office of Central American Affairs John Hamilton, Wilhelm, and Mary Ellen Warlow of DoJ. At this meeting, according to a memorandum prepared by C/LA, [REDACTED] Hamilton provided copies of the January 30 message from Ambassador McAfee raising concerns about the circumstantial nature of the evidence linking Alpirez to Bamaca's disappearance. [REDACTED]

[REDACTED] Feinberg requested a briefing and written comment on the message by DI analysts.

269. January 31, 1995 NSC Meeting. The memorandum prepared by [REDACTED] concerning the fourth NSC meeting on January 31, 1995 indicates participants were the same individuals who attended the January 30 meeting. That memorandum also states that DI analysts had prepared the written analysis Feinberg had requested

and were able to satisfy NSC and State representatives that there was a strong circumstantial case against Alpirez. (The January 31 analysis is set forth in further detail in paragraph 102 of Volume III.)

270. The Agency was released to notify the intelligence committees after this meeting. On February 3, 1995, the committees were told of the January 25 intelligence report that Alpirez had killed Bamaca, [REDACTED] and the October 1991 allegations that Alpirez had been present at the interrogation of DeVine. A demarche mentioning Alpirez by name was prepared, sent to the Embassy and presented by Ambassador McAfee to Guatemalan President De Leon on February 6.



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Chronology: Key Events Pertaining To Efrain Bamaca Velasquez

1983-1991	Several Agency intelligence reports indicate that Efrain Bamaca Velasquez, also known as "Commander Everardo," was active in the ORPA guerrilla group.
	1991
September 25	Declaration and Registration of Marriage filed by Jennifer Harbury in Texas (June 22, 1993) claiming she and Bamaca were married on this date.
	1992
March 13	[REDACTED] Guatemalan Army captured Bamaca near San Marcos the previous day. Though lightly wounded, Bamaca was said to be in good physical condition and cooperating fully with the Army.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	1993
February	Two former URNG guerrillas tell U.N. Human Rights Commission in Geneva that they escaped from a Guatemalan military clandestine prison where they saw Bamaca in March and June 1992.
March 9	Harbury requests U.S. Embassy help in determining Bamaca whereabouts and arranging for exhumation of grave where he may be buried.
[REDACTED]	[REDACTED] confirmed two former URNG guerrillas' statements that the Guatemalan military was holding captured guerrillas, including Bamaca, in clandestine prison cells.
September	Harbury stages first hunger strike in Guatemala City.
September 19	[REDACTED] that Bamaca had been captured alive, held incommunicado, interrogated a number of times, and then killed.

[REDACTED]	[REDACTED] reports that Guatemalan military was concerned about allegations by two URNG guerrillas of clandestine prisons and cemeteries.
1994	
January 12	Harbury tells McAfee that Colonel Alpirez and Major Sosa were identified by witnesses as having supervised the torture of Bamaca while he was held at a military base.
[REDACTED]	[REDACTED] reports Alpirez [REDACTED] personally interviewed Bamaca after his capture.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] Guatemalan Minister of Defense ordered purging of documents that contain information on clandestine cemeteries.
May 20-30	Harbury meets with McAfee and the Guatemalan Defense Minister regarding Bamaca's whereabouts.
October 7	In a sworn statement issued in Washington D.C., former URNG guerrilla Santiago Cabrera states that Alpirez was at the military base where Bamaca was being held and present at Bamaca's interrogation.
October 8	Harbury meets with McAfee again to request assistance in determining Bamaca status.
October 11	Harbury begins second hunger strike in Guatemala City.
October 27	De Leon announces new investigation into the Bamaca case and names a special coordinator to head it.
November 4 & 7	DO and DI briefings of HPCSI and SSCI staff members on Bamaca.
November 11	McAfee presents demarche regarding Bamaca to De Leon. McAfee also meets with Harbury and advises her that the State Department has concluded that Bamaca was taken captive but was only alive for a few weeks after his capture.

November 21

National Security Adviser Lake meets with Harbury and affirms that there is no evidence that Bamaca is still alive. Lake tells Harbury that it was reported that Bamaca was held prisoner as late as July 1992.

[REDACTED]

[REDACTED] reports to have been told by a [REDACTED] Guatemalan that Alpirez was in charge of the interrogation of Bamaca.

December 7

Lake meets with Guatemalan Foreign Minister Ruiz de Vielmar and presses for thorough investigation of Bamaca case.

[REDACTED]

[REDACTED]

[REDACTED] also reports that Major Oliva Germeno, Colonel Leonel Godoy, and Alpirez all worked with Bamaca after his capture in San Marcos.

December 19

Deputy Assistant Secretary of State (DAS) Patterson informs Harbury that the U.S. Government believes that Bamaca is dead.

1995

January 25

[REDACTED] told by [REDACTED] Guatemalan [REDACTED] who was told by [REDACTED] that it was known within the senior ranks of the Guatemalan Army that Alpirez killed Bamaca.

February 3

DO/LA representatives notify HPSCI and SSCI staff members in separate sessions of Alpirez's alleged involvement in Bamaca's death

[REDACTED]

February 6

McAfee presents demarche to De Leon and asks for a thorough investigation, requesting that Guatemalan investigators interview Guatemalan Army officers who may have been present in the area where Bamaca was captured in 1992.

February 8	- DAS Patterson advises Harbury of McAfee's demarche and informs her that, according to available data, Bamaca appears to have been killed following his capture. - McAfee meets with Guatemalan Chief Prosecutor and urges him to undertake a thorough investigation regarding the disappearance of Bamaca.
March 7	McAfee meets with Harbury and tells her that the evidence indicates that Bamaca is dead. However, no one knows the exact circumstances or precisely what happened to him.
March 10	State Department press release states that the Guatemalan Government has been urged to provide a full accounting of Bamaca's disappearance. The press release announces that the U.S. Government has suspended the participation of Guatemalan military personnel in International Military Education and Training Programs in the U.S.
March 22	Representative Torricelli sends a letter to President Clinton and the New York Times, charging the CIA with direct involvement in the murders of DeVine and Bamaca.
March 27	The Public Prosecutor's Office in Guatemala City interviews Alpirez in connection with Bamaca's disappearance. Alpirez reportedly denies knowledge of Bamaca's capture, interrogation or relocation among various military units.
April 4	Harbury tells SSCI that Bamaca vanished in combat on March 12, 1992, near the Guatemalan-Mexican border area. She explains that former URNG guerrilla Santiago Cabrera witnessed Alpirez's presence at Bamaca's torture and interrogation.
May 2	A military court in Retalhuleu rules that there is no reason to hold Alpirez and other members of the Guatemalan military who may have been involved in the capture and torture of Bamaca.
May 18	- According to [REDACTED] Guatemalan Defense Minister Enriquez said that the Bamaca case should be taken up by the Historical Clarification Commission after a final peace agreement is signed between the Government and the URNG. [REDACTED] reports that he learned that Alpirez was not involved in the death of Bamaca.

WHAT INFORMATION WAS AVAILABLE TO THE CIA BETWEEN FEBRUARY 1995 AND MAY 18, 1995 CONCERNING BAMACA? HOW WAS THAT INFORMATION HANDLED? HOW RELIABLE WERE THE CIA ASSETS FROM WHOM THE INFORMATION WAS ACQUIRED?

271. January-February 1995 Embassy Telegrams. In two separate telegrams, the Embassy described reports issued by the Guatemalan Human Rights Ombudsman's office. The first report, dealt with a 30-day investigation into the disappearance of Bamaca. The Embassy commented that the investigation by the Ombudsman's office was limited in scope. The investigation concluded that Bamaca was not found to be detained by any Guatemalan officials or security forces and that it could not be determined whether Bamaca was alive or dead. According to the Embassy, responsibility for the investigation had now reverted to the Attorney General's office. In the second report, the Ombudsman's office concluded that the human rights situation in Guatemala had not improved and the security forces were still abusing individual rights. This report, according to the Embassy, was disappointing in that it was superficial and reached conclusions not fully supported by the facts.

272. On February 8, 1995, Harbury asked DAS Patterson to expedite her Freedom of Information Act (FOIA) request and to provide her with access to classified information pertaining to Bamaca's disappearance. Harbury told Patterson that she planned to conduct another hunger strike on March 12, 1995 if the U.S. Government did not impose sanctions against Guatemala. In response to Harbury's requests, Patterson reiterated the U.S. Government's continued commitment to seek a full account of Bamaca's fate and suggested that Harbury file another FOIA request to obtain the classified information she was seeking. Patterson also told Harbury that "we do not have conclusive evidence but we believe that Bamaca did not survive for more than a few weeks after his capture."

273. [REDACTED]

[REDACTED]

274. February 24, 1995 Embassy Telegram. On February 17, 1995, Ambassador McAfee reported that Harbury stated that she intended to file suit against the U.S. Government if her FOIA request was not completed in a couple of weeks. McAfee also reported that Harbury reiterated her belief that the U.S. should impose economic sanctions against Guatemala. Harbury stated McAfee told Harbury that she did not believe Bamaca was alive because there was no evidence to support that belief. Harbury stated that her efforts were progressing on several fronts: a) a criminal case against individual Guatemalan military personnel; b) a suit against Guatemala filed with the OAS; c) a series of complaints filed with the OAS alleging Guatemalan harassment against her; d) a March 12 planned hunger strike; e) various nonspecific efforts on the international level; and, f) a movie to be produced by Castlerock Productions. In regard to the FOIA request, McAfee directed Harbury to the State Department in Washington.

275. [REDACTED]

[REDACTED] noted that the Guatemalan military had hired a Miami-based lawyer to provide counsel for the 23 military personnel who had been identified in Cabrera's testimony. The Station apprised the DO at Headquarters of [REDACTED] information [REDACTED]

276. February 27, 1995 Intelligence Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED]

[REDACTED] the Guatemalan Government conducted an intensive

investigation and a three month search for Bamaca during the period October to December 1994 before concluding that Bamaca died of wounds received in a firefight in March 1992. Three separate investigations, conducted simultaneously under the direction of the Guatemalan Supreme Court and Attorney General, Public Minister and Prosecutor General, and the Office of Human Rights Attorney General Jorge Mario Garcia, failed to produce any credible leads in Guatemala.

277. When commenting on unsuccessful efforts to exhume and identify Bamaca's remains on separate occasions in August 1993 and in November 1994, [REDACTED] explained that this was neither unusual nor indicative of efforts to prevent the release of Bamaca's remains. They explained that the military elements from Quetzaltenango Department (Military Zone 1715) who killed Bamaca in a firefight on March 12, 1992 were not aware of Bamaca's identity nor of the significance of his capture until a day or two after the firefight. Bamaca, [REDACTED] had no identity documents on his person when he was searched after the firefight. When Bamaca died of wounds, his remains were buried by military personnel without much attention to the site or circumstances. The armed forces did not learn of Bamaca's identity until they intercepted a [REDACTED] advising ORPA leader Rodrigo Asturias of "Comandante Everardo's" loss in the firefight.

278. The Station sent the information [REDACTED] to Headquarters on February [REDACTED] 1995, including an Embassy comment that the investigations referred to were all cursory at best. The information was combined with that received [REDACTED] about the Miami-based lawyer and, [REDACTED]
[REDACTED]
[REDACTED] was disseminated [REDACTED] on February 27 to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;

DLA;
Treasury;
USCINCSO;
Intelligence Units of the Army, Navy, Marine Corps
and Air Force; and
DOEHQ/IN.

279. [REDACTED]
[REDACTED]

280. February 27, 1995 Station Report. On February 24, 1995 the Embassy's human rights officer offered to allow the Station reports officer to review an internal Embassy memorandum relating to the Bamaca case. The memorandum quoted an [REDACTED] official who interviewed a Guatemalan military officer who was a prisoner in Guatemala City. The officer reportedly was in Quetzaltenango when Bamaca was being held there and may have seen Bamaca as late as December 1992. The officer told the [REDACTED] that Bamaca was moved around a lot by G-2 personnel from military post to military post to provide additional security for the operation. However, Bamaca was also taken to D-2 Headquarters in Guatemala City for more intensive interrogations. Bamaca reportedly was immobilized with a cast on his leg to prevent him from escaping. The officer said that, while posted at the Santa Ana Berlin military post (outside Coatepeque) in Quetzaltenango Department, his curiosity got the best of him and he made an unauthorized entrance into the area where Bamaca was being held. He was caught and was punished for his security breach. According to the officer, Bamaca was carted away to Guatemala City and that was the last he was heard of during the time the officer was in western Guatemala.

281. The Embassy human rights officer noted, however, that his [REDACTED] contact stated that the officer gave contradictory and speculative answers regarding what happened to Bamaca after the officer's departure. Further, the [REDACTED] did not

believe the officer has any idea what happened to Bamaca after January 1993.

282. On the morning of February 27, the Station received a formal copy of the memorandum from the Embassy. However, later the same day, the human rights officer asked the DCOS to return the memorandum to the Embassy. The human rights officer said he was not authorized to pass the memorandum to the Station and was not sure the Station was to know about it. The DCOS initially surrendered the memorandum without making a photocopy.

[REDACTED]

283. [REDACTED]

[REDACTED]

[REDACTED]

284. [REDACTED]

[REDACTED]

[REDACTED] the Embassy had sent a message to State Department explaining why the officer's story "sounds fishy." [REDACTED]

[REDACTED]

285. February 28, 1995 Intelligence Report. [REDACTED]

[REDACTED] the Station obtained information [REDACTED] that Guatemalan President De Leon agreed to launch a new and reinvigorated investigation into Bamaca's death. [REDACTED]

[REDACTED] the decision was made in the wake of a meeting between members of the Guatemalan Government Peace Commission (COPAZ) and a former U.S. Ambassador to El Salvador, who was now representing Harbury. President De Leon also agreed to task the Guatemalan Prosecutor General and Public Minister to conduct a thorough investigation into the circumstances surrounding the death of Bamaca. There were also plans [REDACTED]

[REDACTED]

[REDACTED] to take declarations from two former ORPA insurgents who were

presently abroad, and who had testified that they saw Bamaca in an Army clandestine jail. Their declarations and declarations made by Harbury would be used in the investigation.

286. The Station sent the information to Headquarters on February [REDACTED] 1995, and it was disseminated [REDACTED] the same day to:

[REDACTED]

287. [REDACTED]

[REDACTED]

288. February - March 1995 Embassy Telegrams. On February 16, Ambassador McAfee encouraged Guatemalan Army Chief of Staff Gonzalez Taracena to support Public Ministry questioning of Guatemalan Army officers assigned to San Marcos in 1992. On March 6, McAfee again raised with Gonzalez Taracena and MOD Enriquez the need for positive movement on the Bamaca case.

289. March [REDACTED] 1995 Station Report. [REDACTED]

[REDACTED]

290.

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292. According to [REDACTED] the military will resist pressure from civilians in the Executive branch because it believes it would have to compromise some of its officers and admit to wrongdoing. Civilians in the Executive branch are trying to enlist the support of MOD Enriquez to have the Army come up with a different—and more truthful—version of events.

293. The Station sent the information to Headquarters on March [REDACTED] 1995, and it was disseminated [REDACTED] the same day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
Intelligence Units of the Army, Navy, Marine Corps
and Air Force; and
DOEHQ/IN.

294. [REDACTED]
[REDACTED]
[REDACTED]

295. March 7, 1995 Intelligence Report. [REDACTED]

[REDACTED] that MOD Enriquez said during a briefing [REDACTED] that a body exhumed during the search for Bamaca's remains was indeed Bamaca. According to a Station comment, this was presumably a reference to one of three bodies exhumed on August 17, 1993. According to the military investigation, the judge who presided over the exhumation and subsequently declared that the exhumed body was not that of Bamaca was paid to do so, although MOD Enriquez did not explicitly say so during the briefing. MOD Enriquez stated that the judge, who is currently retired, will soon present himself in

court to change his former assessment and will declare that the body that was exhumed was indeed the remains of Bamaca.

296. The Station sent the information to Headquarters on March 7, 1995, and it was disseminated [REDACTED] the same day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR, DSITA;
NSA;
DIA;
Treasury;
USCINCSO;
Intelligence Units of the Army, Navy, Marine Corps
and Air Force;
DOEHQ/IN;
Secret Service; and
FBI.

297. [REDACTED]
[REDACTED]
[REDACTED]

298. March 10-13, 1995 Embassy and State Telegrams.
Harbury concluded a brief visit to Guatemala, meeting with Ambassador McAfee just prior to her return to Washington to begin another hunger strike. Harbury requested that McAfee approach Guatemalan authorities on her behalf to urge them to recognize the validity of her Texas marriage to Bamaca so that she could be guaranteed access to the Guatemalan court system. Harbury expressed her displeasure that a FOIA request submitted to State had not been complied with yet. She repeatedly asked if the U.S. Government had evidence or reliable information that Bamaca was dead. McAfee told Harbury that all available evidence indicated that Bamaca is dead.

299. Simultaneous meetings between Ambassador McAfee and the Guatemalan Foreign Minister in Guatemala, and Central American Affairs Director Hamilton and Guatemalan Ambassador Mulet in Washington discussed Guatemalan Government policy on Bamaca and the U.S. cancellation of Guatemalan participation in the International Military Education and Training (IMET) programs. In Guatemala, the Acting Foreign Minister told McAfee that the Guatemalan Government considers the Bamaca case to be open and is pursuing it. He explained that he believed that Harbury's goal was not justice, but to damage bilateral relations. In Washington, Mulet delivered a press statement and a White Paper on Bamaca's case, noting that the Guatemalan Government's position was that Bamaca was not captured by Guatemalan military forces. Hamilton informed Mulet that the U.S. was suspending the participation of Guatemalan military personnel in IMET programs for the remainder of 1995 due to a lack of substantial progress in the Bamaca, Myrna Mack, Michael DeVine, Nicholas Blake, Griffin Davis, and Diana Ortiz cases.

300. [REDACTED]

301. March 15-17, 1995 Embassy and State Telegrams. The U. N. Human Rights Verification Mission in Guatemala (MINUGUA) issued its first report on March 13, 1995, according to the Embassy. The report detailed numerous human rights violations, many apparently connected to government security forces. The report also cited the URNG for human rights violations.

302. Washington-based URNG representative Francisco Ortega told State Department Senior Adviser Nuccio on March 15, 1995 that ORPA leader Asturias shared the URNG view that Harbury's actions are not politically helpful. Ortega also told Nuccio that he believed Harbury was "obsessed" and could not be stopped from conducting her latest hunger strike, that began on March 12, 1995. In Guatemala City, DCM Keane pressed the Guatemalan Prosecutor General to begin interviews of individuals who may be involved in the disappearance of Bamaca. Keane also asked the Prosecutor General to consider recognition of Harbury's Texas marriage.

303. March [REDACTED] 1995 Intelligence Report. The Station obtained information [REDACTED] that at the time of Bamaca's capture [REDACTED]

[REDACTED] officers visited an imprisoned Bamaca at a Guatemalan Army base in San Marcos Department. [REDACTED]

[REDACTED] added that the Guatemalan Army will "in no uncertain terms" hold to its official account of the events of March 1992, that is, that Bamaca was killed in the course of a firefight with an Army patrol.

304. The Station sent the information to Headquarters on March [REDACTED] 1995, and it was disseminated [REDACTED] the same day to:

[REDACTED]

[REDACTED]

305. [REDACTED]

[REDACTED]

[REDACTED]

306. [REDACTED]

[REDACTED]

307. March 21 and 24, 1995 [REDACTED] Reports. According to the [REDACTED] Guatemalan Army Chief of Staff Gonzalez Taracena stated that the Army was losing credibility over the Bamaca case. [REDACTED] reported that mid-level officers are beginning to question what really happened to Bamaca and may be pressuring the Army's leadership for answers in the case.

308. March 27, 1995 Alpirez interview by the Guatemalan Public Prosecutor. On March 27, 1995, Alpirez was interviewed at the Public Prosecutor's Office in Guatemala City in connection with

the special investigation into Bamaca's disappearance conducted by the Guatemalans. According to a transcript of the interview [REDACTED]

[REDACTED] Alpirez recalled that he was named Third Commander of Military Zone 18 (San Marcos) on January 1, 1992 and was transferred to another post on November 30, 1992. He said he served in San Marcos 11 months and his duties consisted of assisting the Second Commander of the zone in coordinating the activities of the general staff, monitoring the upkeep of the base facilities, and supervising the mechanical services and enlisted men's training. Alpirez specified that, as Third Commander, he was in command of no units and had no troops under his command. He went out on no missions because his work was done at command headquarters, although he occasionally oversaw administrative aspects of the detachments. He denied knowledge of military operations conducted against insurgents in Quetzaltenango Department and Military Zone 18 and pointed out that, jurisdictionally, Quetzaltenango Department is independent of Military Zone 18 (San Marcos). He stated that he was not aware of any capture of insurgents while he was Third Commander of Military Zone 18. He denied knowing anything about the capture of Santiago Cabrera, and said he had not spoken with Cabrera and interrogating was not among his duties. Alpirez denied knowledge of Bamaca's capture, interrogation or being moved among various military units.

309. [REDACTED]

[REDACTED]



310. March 28 and 29, 1995 Embassy Telegrams. The Embassy reported that Guatemalan Public Ministry Prosecutor Machuca said that he interviewed Colonel Alpirez for six hours. Afterward, Machuca announced that he was still undecided as to whether or not Alpirez needed to be brought to court. Prosecutor General Ramses Cuestas, Machuca's supervisor, explained that the Guatemalan Government is interested in fully investigating the matter and has requested documentary information pertaining to Congressman Torricelli's allegations. In addition,  reported that Alpirez denied any involvement in the DeVine or Bamaca cases during his interview with the Public Ministry. The source said that Alpirez also denied ever working as a CIA asset.

311. 

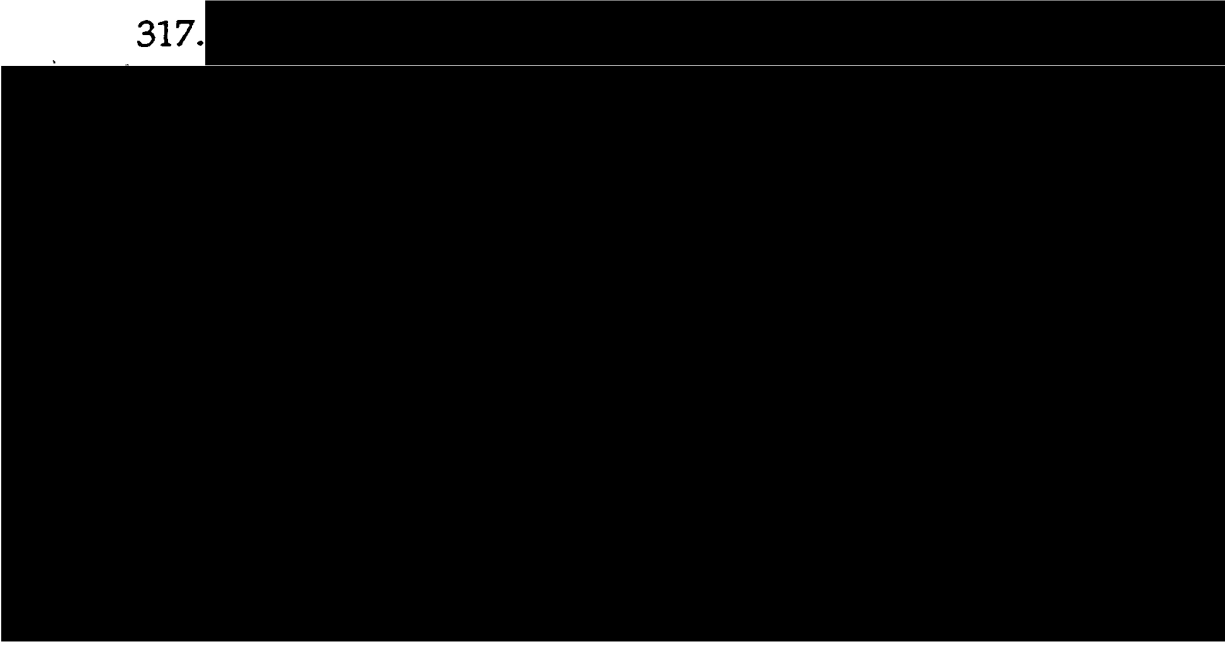

312. March-April 1995 Embassy and State Telegrams. On March 30, the Embassy reported that Ambassador McAfee met with Guatemalan Prosecutor General Cuestas and urged him to quickly reinterview the other Army personnel implicated in the Bamaca case. Cuestas told McAfee that he wanted to get Santiago Cabrera's official statement as well as the evidence that Congressman Torricelli and the U.S. Government had on the case. Cuestas noted that he planned to send Prosecutor Machuca to Washington to obtain the evidence.

313. The Embassy also reported on April 3, 1995 that one of President De Leon's closest private advisors, Jorge Arenas, requested the establishment of a private communications channel between the U.S. and Guatemalan Government that would hopefully result in the achievement of a positive outcome in the Bamaca case. Arenas expressed great personal concern to McAfee over the inadequate response to date of the Guatemalan Government, calling it negative and even harmful. He said he had a long talk with President De Leon about his concerns and offered himself as an intermediary to try to develop a proactive positive solution to the problem.

314. On April 4, 1995, the State Department instructed Ambassador McAfee to deliver a demarche, using provided talking points, and a letter from the Secretary of State to Guatemalan President De Leon. The letter and the demarche stressed the importance of bringing to justice the murderers of DeVine and Bamaca. It also stressed the U.S. Government's willingness to cooperate toward that end.

315. In following State's instructions, McAfee reported that she met the same day with President De Leon and that De Leon showed a commitment toward full cooperation to resolve both the Bamaca and DeVine cases. However, De Leon initially indicated that, since Bamaca is now accepted as dead, the case should be kept for the Historical Clarification Commission, because Bamaca was a guerrilla who died in the war. Then, after the meeting, De Leon obviously reconsidered what he had said and called McAfee to express a willingness to continue to seek ways to resolve the case, without taking rigid positions that would constrain future action.

316. According to an Embassy analysis, reported on April 4, the De Leon Government is currently faced with growing problems and a shrinking support base. Exacerbating the situation are recent coup rumors that are most likely the result of the Bamaca, DeVine and CIA cases. In order to resolve these cases, the Embassy analysis noted that De Leon would have to take on the Army, and in doing this, he would be faced with a major problem because the Army represents his most important support base. The outcome, according to the analysis, could indicate paralysis for the De Leon presidency, until his departure from office in January 1996.

317. 

318. April 4, 1995 SSCI Hearing. According to a public transcript of the open session of the SSCI hearing, Harbury described her involvement in Guatemalan affairs and stated that her husband vanished in combat on March 12, 1992 in Guatemala near the Mexican border in ORPA territory. She also noted that the Army issued a brief statement the next day saying that they had found a cadaver after the combat and sent it to Retalhuleu for burial. Referring to Cabrera's statements about Bamaca, Harbury testified:

...I would for a long time have continued to think that he was dead and buried in Retalhuleu if Santiago Cabrera Lopez had not escaped from an army base in late 1992.

Now in fact Santiago had fought in my husband's division and he himself was taken prisoner in 1991. He had been very badly tortured for a period of about six months and was placed in a new experimental program being carried out by G-2, or military intelligence, which was only a few years old at that time. A few selected-out prisoners who were captured, instead of being promptly killed, were actually taken aside and subjected to long-term torture and psychological abuse until they would snap or break down and become part of a secret and permanent cadre of informants for the army. A number of these prisoners that he was able to name, we have confirmed are still alive and in army hands. Some of them have been alive for years. Again, the purpose was not to kill them, it was to keep them alive but broken.

On March the 12th, 1992, Santiago saw my husband in an army base, chained hands and feet to a bed, undergoing interrogation. He was even able to speak with him briefly because the G-2 officials wished for him to confirm that that was in fact the legendary Commander Everado that they had been trying to catch for so long. He saw him chained to a bed, hands and feet, without a blanket, under interrogation, for about 20 days. Everado was then moved; they were told he had been shot. But he saw him again in late July, 1992, in a different base.

This time, he saw him strapped to a hospital table with an unidentified gas tank next to the bed. He was stripped down to his underwear. His entire body was grotesquely swollen several times normal size. One arm was bandaged completely shoulder to wrist, and one leg was bandaged completely hip to ankle as if they had ruptured, and he was speaking in a raving voice.

The man bending over the torture table was someone that Santiago knew quite well; it was Colonel Julio Alpirez. Santiago also named first name, both last names, rank and position of all the other very high level intelligence officials who were involved in his torture and interrogation. He also said that they had actually called a doctor to stand by to make sure they didn't accidentally kill Everado. The point was to break him, not to kill him. He was the goose that laid the golden egg in terms of military intelligence.

There's nothing, after 17 years as a commander and founder, that he did not know.

Santiago did see him alive a few days later. The swelling had gone down. He looked very ill but he was still alive. He could not see the arm and leg because he was dressed in a military uniform. A few months later, Santiago escaped having not seen Everado (sp) again, and had been threatened many, many times to never tell of what he had seen.

Mr. Cabrera Lopez in January met with me. I interrogated him very attorney style, up one wall and down the other. He has a memory like a computer and never contradicts himself. He went to Geneva and gave all of this testimony to the United Nations Conference in Geneva in February '93. I testified March the 4th, '93, and gave all of this list of names as well to the OAS InterAmerican Commission on Human Rights. I then proceeded to give all of this information to the State Department, to members of the United States Congress and Senate, and to all of the Human Rights Organizations, begging for help.

At that point, the army, of course, in Guatemala responded that it was a propaganda stunt, that Santiago was lying, that he was a deserter, he was trying to blackmail them, he was a drug-- and that my husband was buried in Retalhuleu where they told me in the first place. . . .

319. April 5, 1995 DAO Report. On March 24, 1995, a [REDACTED] [REDACTED] Bamaca was now "dust" and had died in Military Zone 1715 (Quetzaltenango) on the slopes of Volcan Santiaguito, a small active volcano in the heart of contested insurgent territory. [REDACTED] [REDACTED] also told [REDACTED] that Bamaca had died on Volcan Santiaguito. [REDACTED] during the time Bamaca was held at San Marcos, Bamaca led a patrol, commanded by a Guatemalan intelligence officer named Jesus Efrain Aguirre Loarca, up Volcan Santiaguito in Military Zone 1715 to locate an arms cache. While on the slopes of the volcano, the patrol was ambushed by URNG insurgents. Aguirre was severely wounded in his right arm and in his anger made the decision to eliminate Bamaca, possibly by having him thrown into the active volcano. [REDACTED] confirmed that Bamaca had died that day on Volcan Santiaguito.

320. [REDACTED] commented that it would not have been unusual for an intelligence officer to make the decision on his own to eliminate an insurgent, even one like Bamaca who was deemed of value. [REDACTED] that at no time would a written record have been made of the events surrounding the death of an insurgent such as Bamaca. [REDACTED] opined that it would be easy to determine when Bamaca died as Aguirre's wound was so severe that shortly thereafter he traveled to a U.S. medical facility for treatment. The [REDACTED] report included a [REDACTED] noting that Aguirre traveled to the U.S. from March 18, 1992 to June 5, 1992 and again between September 6 and September 30, 1992. The [REDACTED] report was disseminated to DIA on April 5, 1995 and made available to Agency Headquarters 5 days later.

321. On April [REDACTED] 1995, [REDACTED]
[REDACTED] asking if the Station had collateral reporting that might confirm or disapprove the [REDACTED] assertions. The Station responded on April [REDACTED] referring to the considerable and often conflicting reporting received in the Bamaca case. The Station also stated that it had no information to prove or disprove that Aguirre Loarca had Bamaca killed in a fit of rage. [REDACTED]
[REDACTED]
[REDACTED]

322. April [REDACTED] 1995 Intelligence Report. [REDACTED] the Station obtained information [REDACTED]
[REDACTED] that [REDACTED]
[REDACTED]
[REDACTED]
there is fear and great preoccupation [REDACTED]
[REDACTED] that the scandal involving Bamaca and Alpirez will affect the evolution of the peace negotiations. The De Leon administration expects the URNG to use the scandal to place

demands on the Government with the objective of further delaying the signing of a peace agreement.

323. The Station sent the information to Headquarters on April [REDACTED] 1995, and it was disseminated [REDACTED] the same day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
DOEHQ/IN; and
Intelligence Units of the Army, Navy, Marine Corps
and Air Force.

324. [REDACTED]

[REDACTED]

325. April 7, 1995 [REDACTED] Report. On March 31, 1995, a [REDACTED] captain told [REDACTED] does not believe claims that Alpirez was responsible for the interrogation and subsequent death of Bamaca. According to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] noting that, even though [REDACTED] can account for Alpirez's time during the first month or so of Bamaca's reported internment, it must be remembered that it was not until mid-July 1992 that ex-URNG guerrilla Cabrera identified Alpirez as one of Bamaca's interrogators. The [REDACTED] report was disseminated to DIA on April 7, 1995 and made available to Agency Headquarters 3 days later.

326. April 7, 1995 Embassy Telegram. The Embassy reported that on April 5, 1995, during a social gathering Ambassador McAfee encountered a defensive MOD Enriquez regarding the Bamaca and DeVine cases. Specifically, Enriquez persisted in supporting the official Guatemalan Government line that Bamaca disappeared during a firefight near Retalhuleu on March 12, 1992; the Army never had him; and the Army has no knowledge of his fate. In contrast, Enriquez displayed a possible willingness to reopen an investigation of the DeVine murder, to consider accepting an FBI advisory presence on some human rights cases, and to think about publicly announcing that MINUGUA the United Nations Human Rights Verification Mission in Guatemala had interviewed all ex-guerrillas still in Army custody.

327. Enriquez claimed that he had no personal knowledge of what happened to Bamaca as he was assigned to a different area of the country at the time of the disappearance. Enriquez also noted that no soldiers had come forward with information that Bamaca had been captured at Military Zone 18 in San Marcos or anywhere else. McAfee told Enriquez that specific U.S. Government information had been provided to President De Leon on the Bamaca case, that a February report indicated that Bamaca had been captured and detained by the Army at San Marcos, and that Colonel Alpirez, as one of the officers assigned to San Marcos at the time, certainly had knowledge of what happened to Bamaca. [REDACTED] was also in attendance at the breakfast and told Enriquez that the information was independent of that elicited from Santiago Cabrera.

328. Enriquez added that he now had a sworn statement from a former female guerrilla from Bamaca's unit who is currently a collaborator at Military Zone 18 in San Marcos. According to Enriquez, she saw Bamaca living with a female guerrilla companion at his guerrilla camp in San Marcos. She observed them kissing and embracing one another and said that she had never seen Harbury in the camp or with Bamaca. A picture of Harbury had been shown at the camp, and Harbury had been described to all the combatants as a collaborator and supporter of the guerrillas. Enriquez continued to reiterate that the Guatemalan Army never had Bamaca.

329. [REDACTED]

[REDACTED]

330. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

331. April [REDACTED] 1995 Intelligence Report. [REDACTED]

[REDACTED] obtained information [REDACTED] that the URNG planned to make the most of Harbury's denunciations of Guatemalan Government human rights abuses since the URNG anticipates that the accompanying scandal will divert Guatemalan Government and international attention from URNG noncompliance and foot-dragging in the peace process. [REDACTED] although Harbury is not a formal URNG official, she has had a long affiliation with the ORPA and has followed its directives. The URNG anticipates utilizing Harbury as an even more effective political tool [REDACTED] to divert international attention from URNG refusal to sign any peace agreement in 1995. [REDACTED] at each contentious turn of the next negotiation round, the URNG plans to have Harbury increase her public denunciations of Guatemalan Government human rights abuses to discredit the Guatemalan Government.

332. [REDACTED]

[REDACTED] This information was sent [REDACTED] to the DO at Headquarters [REDACTED] and disseminated [REDACTED] as an intelligence report to: [REDACTED]

[REDACTED]

333. [REDACTED]

[REDACTED]

334. [REDACTED]

[REDACTED]

[REDACTED]

335. April 20, 1995 Intelligence Report. [REDACTED] the Station was told [REDACTED] of a possible Bamaca burial site. [REDACTED] advised [REDACTED] that Bamaca is said to be buried at the Cabanas Army detachment (San Marcos Department) which is located on the Cabuz River. In response to the Station's request for Headquarters' views on dissemination, Headquarters advised the Station [REDACTED] to resubmit the information and include appropriate comments to make clear the "rumor nature" of the information.

336. The Station sent the information to Headquarters on April 20, 1995, and it was disseminated on April 20 as an intelligence report [REDACTED]

[REDACTED]

~~SECRET~~

[REDACTED]

337. [REDACTED]

[REDACTED]

338. April [REDACTED] 1995 Intelligence Report. [REDACTED] the Station obtained information [REDACTED] that the Guatemalan Army is developing a campaign to publicize the guerrilla activities of Bamaca. [REDACTED]

[REDACTED]

[REDACTED] The plan calls for the formation of a committee made up of the families of soldiers the Army estimates were killed and wounded in ambushes likely organized by Bamaca. Ideas being considered by the Army include sending the family members to Washington to meet with members of the U.S. Congress, providing photos to the press of amputee soldiers wounded in the ambushes, and using the admission of Bamaca's American wife that she was with Bamaca during this timeframe.

339. The Station sent the information to Headquarters on April [REDACTED] 1995, and it was disseminated [REDACTED] on April [REDACTED] to:

[REDACTED]

340. [REDACTED]

[REDACTED]

341. April [REDACTED] 1995 Intelligence Report. [REDACTED]

[REDACTED] obtained information [REDACTED]

[REDACTED] that the URNG high command [REDACTED]

[REDACTED] commenced a

propaganda campaign in April to paint U.S. intelligence as the URNG's greatest enemy, and themes include the idea that U.S. intelligence was responsible for Bamaca's murder and has been supporting death squads in Guatemala. The URNG high command hopes this will help relieve it of international political pressure during the upcoming round of peace talks by embarrassing and weakening the Guatemalan military and the government of Guatemalan President De Leon as well as enlisting international public opinion on behalf of the URNG.

342. [REDACTED]

[REDACTED]

[REDACTED]

343. [REDACTED] sent the information to [REDACTED] Headquarters on April [REDACTED] 1995, and it was disseminated [REDACTED] on April [REDACTED] to:

[REDACTED]

344. [REDACTED]

[REDACTED]

345. April 26, 1995, Embassy Telegram. According to Embassy reporting, on March 17, 1995, the Political Counselor (accompanied by an ACS Officer) met with Vicente Arranz, President of the President's Commission on Human Rights (COPREDEH), to discuss

the Guatemalan Government's investigation into the Bamaca case. The Political Counselor also conveyed Harbury's request to be present at interviews of the Guatemalan military and expressed concern over the difficulties she was encountering in registering her marriage to Bamaca in Guatemala. Arranz confirmed that Public Ministry interviews of military members had not yet begun and offered several excuses for the delay. With respect to Harbury's request to attend all interviews and visits conducted in connection with the investigation, Arranz replied that he would respond officially after receiving the request in writing from the U.S. Embassy and after discussing it with the appropriate Guatemalan Government officials. With respect to the registration of her marriage, Arranz accepted the Embassy's concerns but noted that the marriage issue was not relevant to the investigation, which would continue regardless.

346. [REDACTED] the Station obtained information [REDACTED] that the Guatemalan Government was preparing to suspend senior military officers Roberto Alpirez and Garcia Catalan, who are implicated in the DeVine death and cover-up, until a judicial investigation clears their names or finds proof against them, in which case they will be disciplined. The Guatemalan Government does not intend to conduct further investigations into Bamaca's death. The Bamaca case will be left to the Historical Clarification Commission once a peace agreement is signed with the URNG. [REDACTED] because the government is seeking to have an amnesty in place for the Guatemalan military and members of the URNG by the time the agreement is signed, it is highly unlikely the Bamaca case will ever be fully resolved.

347. The Station sent the information to Headquarters on [REDACTED] and it was disseminated [REDACTED] on [REDACTED]

[REDACTED]

348.

349. April 27, 1995 Embassy Telegram. The Embassy reported that on April 26, 1995 Ambassador McAfee met with Guatemalan President De Leon and discussed the DeVine and Bamaca cases. De Leon conveyed to McAfee that in his opinion Bamaca's disappearance and death should be dealt with by the Historical Clarification Commission. De Leon argued that the Bamaca case goes to the heart of the conflict and cannot be separated out from its ultimate resolution.

350. With respect to the DeVine murder, De Leon implied that it will be difficult to pursue the intellectual authors of the crime and those involved in the cover-up. De Leon explained that any such investigations (especially regarding the cover-up) could implicate a great number of officers including two past MODs. De Leon also suggested that Alpirez and Garcia Catalan were suspended due to their possible involvement in the deaths of two soldiers mentioned

~~_____~~

April 20, 1995 intelligence report. [REDACTED]

[REDACTED]

[REDACTED]

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354. May 3, 1995 State Telegram. According to a Department of State telegram, on May 1, 1995, senior State officials John Hamilton and Richard Nuccio, met with Guatemalan President De Leon's Adviser for National Security, Jose Maria Argueta. Argueta appealed to the U.S. Government to provide President De Leon feedback on his actions on the DeVine and Bamaca cases. Argueta explained that some form of feedback would encourage De Leon to take steps described by Argueta in an April 26, 1995 meeting regarding the abolition of military commissioners, shake-up of the military high command and moving forward implementation of the Historical Clarification Commission.

355. Prior to the May 1, 1995 meeting, Hamilton and NSC staff member Chat Blakeman briefed Argueta on U.S. intelligence conclusions about the Bamaca case that were derived from interagency-cleared talking points. Specifically, U.S. intelligence indicated that Bamaca had been captured alive in the spring of 1992 by the Guatemalan military and had not died in a firefight as the Guatemalans contend. Bamaca was held by the Guatemalan Army in Military Zone 18 in San Marcos and was interrogated. Further, according to testimony of Santiago Cabrera, Alpirez had overseen Bamaca's interrogation with participation by other Guatemalan officers and soldiers (to include Military Zone 18, G-2, Major Sosa Orellana). Argueta claimed that the Guatemalan Government needs additional information to pursue a prosecution, but Hamilton and Blakeman contended that the information already passed to the Guatemalan Government provided sufficient leads to undertake an investigation.

356. May 4, 1995 Embassy Telegram. According to Embassy reporting, the Guatemalan press reported on May 2 that the military court in Retalhuleu had ruled that there was no reason to hold Alpirez and other members of the Guatemalan military in the capture and torture of Bamaca. The decision was the result of the Chief Prosecutor's preliminary investigation to determine whether an evidentiary basis existed upon which to bring charges against specific Guatemalan military members. Defense lawyers subsequently

requested the judge to "close the case or declare that there is no case." The judge acceded to that request, effectively closing the case to further investigation and judicial review.

357. May [REDACTED] 1995 Intelligence Report. [REDACTED]

Station obtained information [REDACTED]

[REDACTED] declarations
by a military judge that there was no evidence to indicate Alpirez was involved in Bamaca's death and that the case was closed. [REDACTED]

[REDACTED]
Guatemalan appeals court had upheld the military court's decision on May 2, 1995. [REDACTED]

[REDACTED]
[REDACTED] President, De
Leon agreed he would instruct the Public Ministry to request a restraining order against the finding of the military court that would allow the case to remain open and the investigation to continue.

358. The Station sent the information to Headquarters on May [REDACTED] 1995, and it was disseminated [REDACTED] the same day to:

U.S. Embassy, Guatemala;
White House Situation Room;
State, INR;
NSA;
DIA;
Treasury;
USCINCSO;
Intelligence Units of the Army, Navy, Marine Corps
and Air Force;
Secret Service;
FBI; and
DoJ Command Center.

359. [REDACTED]
[REDACTED]
[REDACTED]

360. May 8, 1995 DAO Report. [REDACTED]
[REDACTED]

[REDACTED] Additionally, stress and tension remain within the Guatemalan Army as some senior officers choose their position over the issue of impunity. [REDACTED] noted that the DeVine, Blake, and Davis cases are viewed as legitimate for expeditious resolution in contrast to the Bamaca case.

361. With specific reference to the Bamaca case, [REDACTED] [REDACTED] stated that Bamaca is dead and the case should be settled under the auspices of the Historical Clarification Commission once the war ends. Additionally, [REDACTED] stated that to continue to subject the Guatemalan Government to pressure for the resolution of the Bamaca case, would only serve to damage the already fragile peace negotiations as well as detract from the other cases such as DeVine, Blake and Davis.

362. May 9-11, 1995 Embassy Telegrams. The Embassy reported that Ambassador McAfee met with MOD Enriquez on May 7, 1995 at a social gathering. McAfee took the opportunity to press Enriquez regarding the need for continued progress in the Bamaca, DeVine and other human rights cases. Enriquez distinguished between the murder of DeVine and the death of Bamaca during the conflict. Additionally, Enriquez reiterated that the Guatemalan Government is actively searching for Contreras but that the Bamaca death would be a matter for the Historical Clarification Commission. Enriquez appeared cognizant of the need for the Guatemalan Government to resolve these cases but offered no new ideas about how to achieve that progress.

363. On May 9, 1995, the U.S. Consul General called upon Guatemalan Prosecutor General Ramses Cuestas to inquire as to the reasoning behind the removal of Special Prosecutor Lionel Machuca from the Bamaca and DeVine investigations. Cuestas revealed that he had recently discovered that Machuca had acted in direct contradiction to the Public Ministry's official position in the Bamaca case by failing to appeal the recent court decision to close the case to further investigation or review. Machuca subsequently lied to his superiors and to Embassy personnel in stating that the Public Ministry had appealed but that it had unfortunately been filed too late for consideration. Additionally, Cuestas noted that carbon copies of Alpirez's statement to the court had been tampered with. According to Cuestas, a confirmation of the decision by the military court would prevent Harbury or others from pressing any kind of criminal charges against Alpirez and the other military suspects in the future. Cuestas claimed to be preparing an appeal that will allow a reversal of the decision in the Bamaca case.

364. With respect to possible future litigation filed against Guatemalan military members on behalf of Harbury, Cuestas said that he would work with Harbury. However, he opined that the issue of the legality of her marriage would first have to be settled if she were to press charges as Bamaca's spouse.

365. May 11, 1995 DAO Report. The [REDACTED] that the Guatemalan Army believes that the U.S. Government is deliberately attempting to destroy the Army, but that these efforts are uniting the military rather than dividing it. Further, [REDACTED] officers in the Guatemalan Army believe that once the Army admits to wrongdoing and "sacrifices" an officer to the U.S., then the U.S. and others will seek out other officers and attempt to have them brought to justice for alleged crimes. [REDACTED] stated that "things" happened during the long war that would not be accepted today. [REDACTED] it is these occurrences that individual officers fear will be revealed and result in the ultimate destruction of the Guatemalan Army as an institution.

~~SECRET~~

366. Additionally, [REDACTED] no one has asked what DeVine was doing in Guatemala beyond the fact that he had a small hotel in Poptun. No one has inquired into allegations that he was involved in smuggling both arms and illegal contraband. [REDACTED] that with respect to Bamaca, it appears that everyone has accepted the statement that he was married to Harbury. [REDACTED] explained that no one has inquired as to whether Bamaca was already married in Guatemala. According to [REDACTED] Bamaca was in fact already married, and not only had a Guatemalan wife, but two children who currently live on a farm on the Pacific Coast.

367. May 12, 1995 Agency Chronology. An update to the January 27, 1995 chronology, prepared by DI [REDACTED] analyst [REDACTED] was published on May 12 and cited [REDACTED] intelligence reports that had been issued by the Agency and the DAO on Bamaca-related issues. The published update offered a summary of each intelligence report but included no analysis pertaining to Bamaca's fate.

368. On May 12, 1995, the Agency chronology was disseminated to various Agency components and:

Director, Inter-America Affairs, NSC;
Mr. Richard Feinberg, NSC;
Deputy Assistant Secretary, InterAmerican Regional Affairs,
Central American Affairs, State;
Director, Office of Central American Affairs, State;
Special Assistant to the Secretary of State;
AS, INR, State;
Guatemala Desk Officer, State;
Guatemala INR Analyst, State;
Director, NSA;
Director, DIA; and
Director (J-2), Pentagon.

369. [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

370. May [REDACTED] 1995 Intelligence Report. [REDACTED] the
Station obtained information [REDACTED] that [REDACTED]

[REDACTED]

[REDACTED] the Bamaca
case was closed and should be taken up by the Historical
Clarification Commission after a final peace agreement is signed with
the Guatemalan insurgency. [REDACTED] any
investigative effort into Bamaca's fate in the future should be the
responsibility of MINUGUA.

371. The Station sent the information to Headquarters on
[REDACTED] and it was disseminated [REDACTED] on
May [REDACTED] to:

[REDACTED]

[REDACTED]

372. [REDACTED]

[REDACTED]

373. May [REDACTED] 1995 Intelligence Report. [REDACTED] the Station obtained information [REDACTED] that Alpirez was not involved in the death of Bamaca. [REDACTED]

[REDACTED] Bamaca was turned over to military intelligence in Guatemala City sometimes after his capture.

[REDACTED]

374. [REDACTED], the capture of Bamaca was an emotional event with the armed forces, which resulted in high level attention to the case. [REDACTED] the compartmentation and security of the operation was not maintained because of the excitement that resulted from the capture of an URNG commander. Bamaca was moved around San Marcos Department to help the Army understand URNG modus operandi and was recognized by enlisted men in the area as he traveled and assisted Army officers in identifying such things as insurgent arms caches.

~~SECRET~~

375 [REDACTED] commented that at the time of his capture Bamaca was the only URNG commander ever captured by the Army.

[REDACTED]

376. The Station sent the information to Headquarters on May [REDACTED] 1995, and it was disseminated [REDACTED] on the same day to:

[REDACTED]

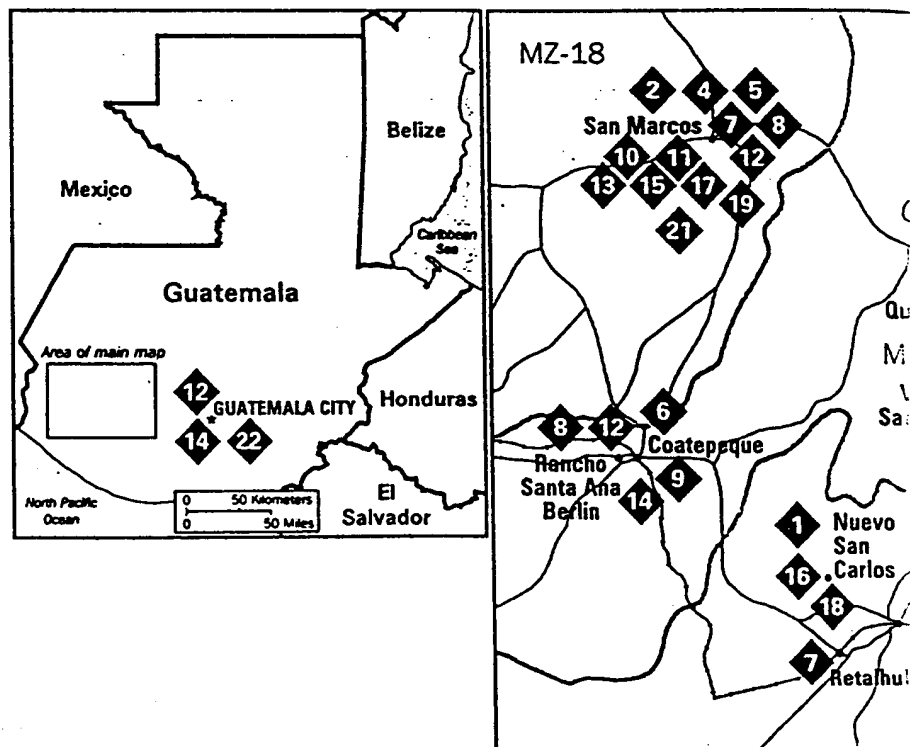
377. [REDACTED]

[REDACTED]

[REDACTED]

Reporting on Bamaca's Fate

Reporting by Date Information Available to CIA



Mar 1992

Guerrilla group leader killed at Nuevo San Carlos (Retalhuleu)

1 Date of event: March 12, 1992
Report source: Press

Everardo captured at San Marcos, in good health and cooperating with Army

2 Date of event: March 12, 1992
Report source: CIA

Everardo killed at Santa Cruz del Quiche, in combat

3 Date of event: Mar 1992
Report source: CIA

Apr 1992

D-2 reports Everardo dead

Date of event: No date
Report source: CIA

May 1993

Two ex-guerrillas claim Bamaca seen alive in clandestine prison

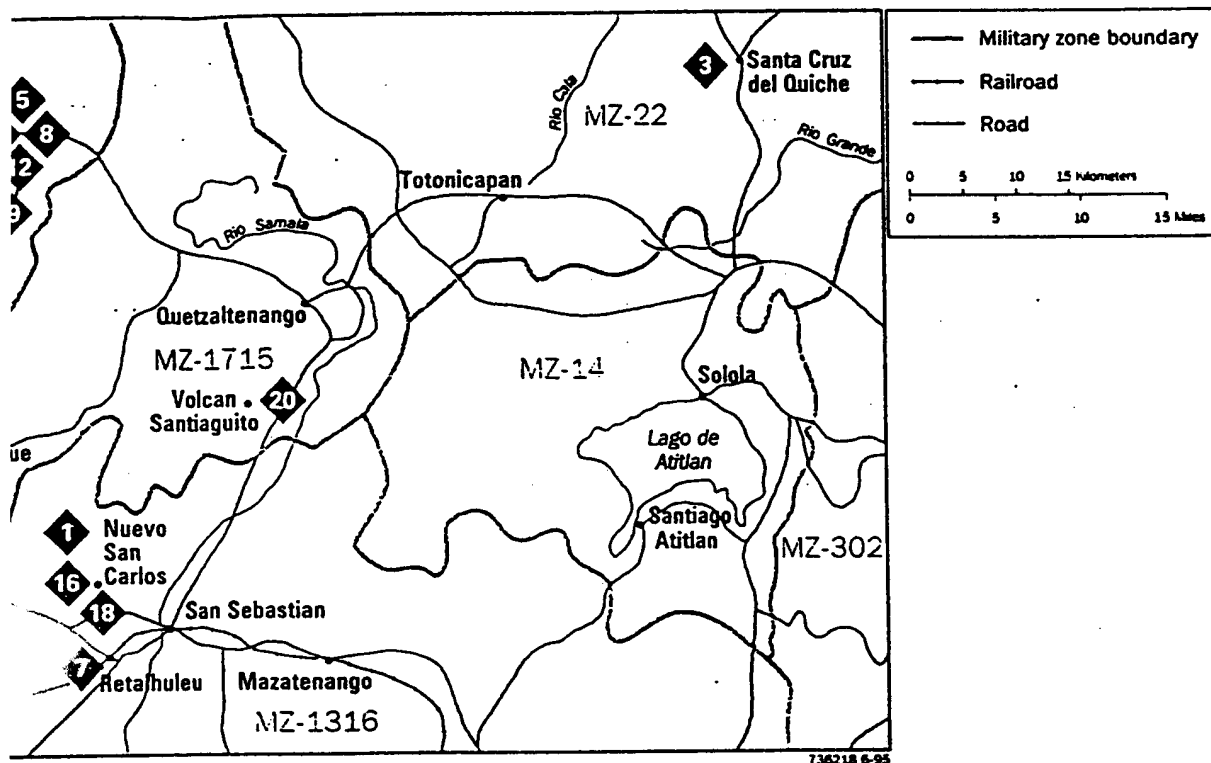
Date of event: 1992
Report source: State

confirms ex-guerrillas' claim

Date of event: 1992
Report source: CIA

1992

1993



736218 6-95

Jun 1994

Bamaca died
being wounded

Date of
Report

Aug 1

Bamaca
Army

Bamaca
prison
2
ite
informs

Jan 1994

Alpirez supervised Bamaca torture

Date of event: No date
Report source: State*

Apr 1994

Alpirez interviewed Bamaca at
San Marcos before Bamaca taken
away by general staff D-2

4 Date of event: Mar 1992
Report source: CIA

* Information attributed to Harbury

Nov 1994

Bamaca killed near town of Coatepeque by patrol

6 Date of event: 12 Mar 1992
Report source: CIA

Bamaca interrogated. held incommunicado, and killed

Date of event: Mar 1992
Report source: DAO

Bamaca captured and interrogated at Retalhuleu, moved to San Marcos, placed in body cast, interrogated for one month before MI chief ordered killed. Bamaca loaded alive onto D-2 helicopter.

7 Date of event: Mar 1992
Report source: DAO

Bamaca turned over to G-2 in San Marcos. Held in San Marcos and Rancho Santa Ana Berlin [REDACTED]

Not tortured or wounded, turned over to D-2.

8 Date of event: 12 Mar 1992
Report source: CIA

COPREDEH has witnesses to testify Bamaca committed suicide before being apprehended

Date of event: No date
Report source: CIA

Bamaca may be buried in Coatepeque

9 Date of event: No date
Report source: State

[REDACTED] URNG passed info to Harbury that Bamaca was detained and tortured by Guatemalan army—[REDACTED]

[REDACTED] all info fabricated

Date of event: No date
Report source: CIA

Nov 1994 (Continued)

Bamaca died as a result of wounds after Mar 1992 fight

Date of event: Mar 1992
Report source: DAO

Bamaca died shortly after capture of wounds received in combat and buried in San Marcos near firefight sight

10 Date of event: Mar 1992
Report source: CIA

Bamaca captured unharmed and may have been alive 4 to 5 weeks after capture

Date of event: 12 Mar 1992
Report source: CIA

Bamaca taken alive, interrogated by Alpirez at MZ-18, now dead

11 Date of event: Mar 1992
Report source: CIA

Dec 1994

Bamaca captured during firefight at MZ-18 and then taken to Rancho Santa Ana Berlin where he was held for one month, interrogated, and moved to Guatemala City. Bamaca is dead.

12 Date of event: May 1992
Report source: DAO

Alpirez worked with Bamaca after capture. Bamaca not killed in San Marcos

13 Date of event: Mar 1992
Report source: CIA

Jan 1995

Alpirez killed B.

Date of ev
Report sou

y after
n firefight
ent: No date
rce: CIA

illed in firefight with
ps
e of event: Mar 1992
ort source: CIA

: 1994

maca died of wounds soon
er firefight [REDACTED]

Date of event: Mar 1992
Report source: CIA

maca is dead

Date of event: No date
Report source: CIA

Jan 1995

Alpirez killed Bamaca

Date of event: No date
Report source: CIA

Feb 1995

Bamaca moved by G-2 from Rancho Santa Ana Berlin, taken by D-2 to Guatemala City

◆14 Date of event: 1992
Report source: State

Mar 1995

Bamaca interrogated at MZ-18 by G-2 and G-3, tried to escape

◆15 Date of event: 1992
Report source: DAO

Bamaca captured, slightly wounded at Nuevo San Carlos, taken to infirmary at Southern Air Base, then removed via truck by G-2, G-3, and D-2 personnel

◆16 Date of event: March 12, 1992
Report source: DAO

Bamaca not taken to MZ-18 at San Marcos until end of March, held in San Marcos until end of April

◆17 Date of event: Mar 1992
Report source: DAO

Journalists shown two bodies in afternoon at Nuevo San Carlos and told one of two dead was Bamaca

◆18 Date of event: March 12, 1992
Report source: DAO

Bamaca visited [REDACTED]
at San Marcos

◆19 Date of event: Mar 1992
Report source: CIA

Bamaca is dead, remains are in place "impossible" to recover

Date of event: No date
Report source: DAO

Apr 1995

Bamaca died in [REDACTED]
Santiaguito, killed

◆20 Date of event: [REDACTED]
Report source: [REDACTED]

Bamaca buried in [REDACTED]

◆21 Date of event: [REDACTED]
Report source: [REDACTED]

Bamaca turned over to [REDACTED]
Date of event: [REDACTED]
Report source: [REDACTED]

1995

Rej

Rep

15 on slopes of Volcan
D-2 officer on patrol

o date
AO

Marcos Department

o date
1A

D-2 after capture
o date
1A

May 1995

Alpirez not involved in Bamaca's death, Bamaca
turned over to D-2 in Guatemala City after capture

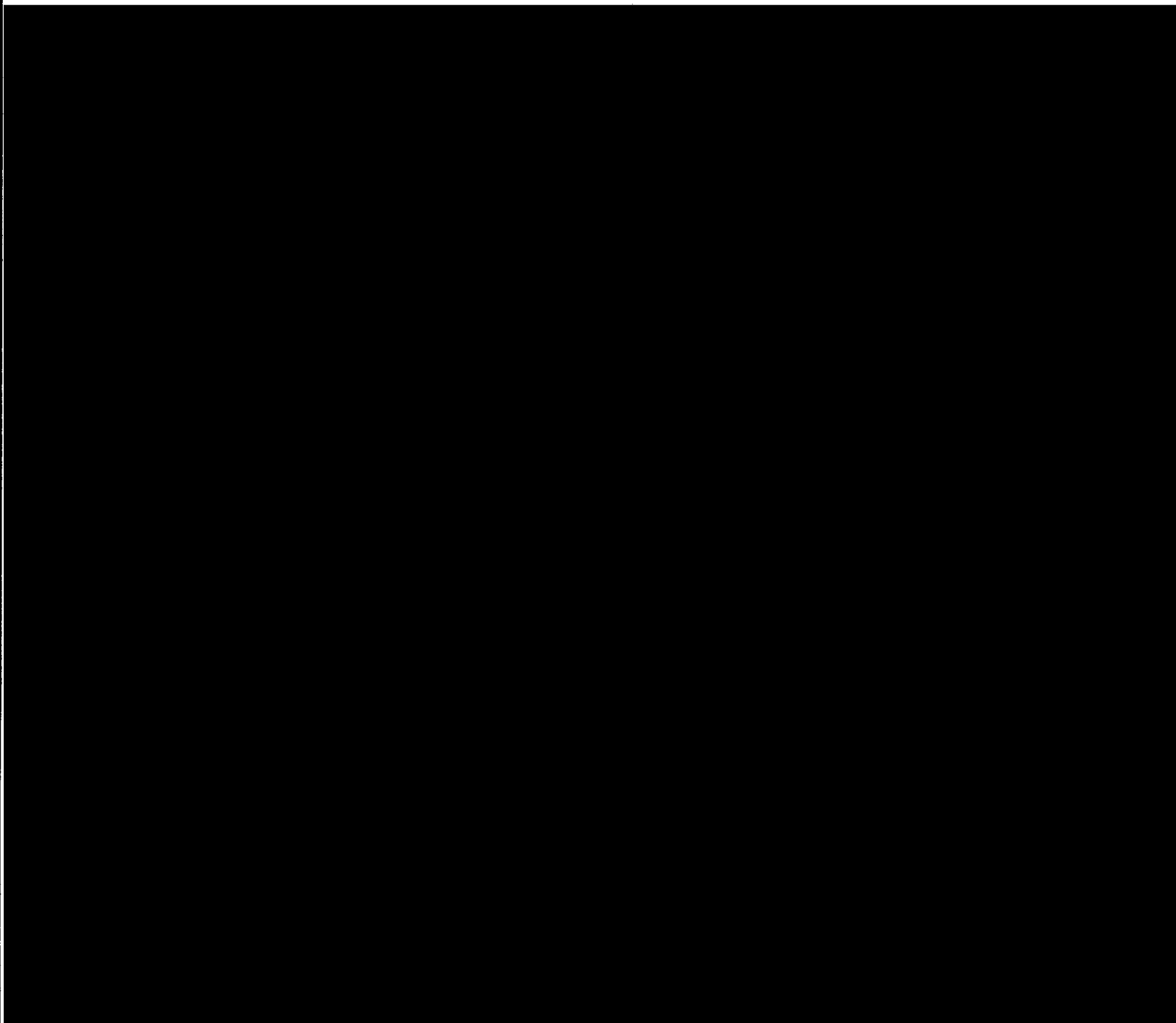


Date of event: No date
Report source: CIA

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Upants of Senior Guatemalan Positions

1987	1988	1989	1990	1991	1992	1993	1994	1995
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President

Vinicio CEREZO Arevalo

Jorge SERRANO Elias

Ramiro DE LEON Carpio

Minister of Defense

Hector Alejandro GRAMAJO Morales

Juan Leonel BOLANOS

Jose Domingo GARCIA Samayoa

Mario Rene ENRIQUEZ Morales

2nd Army Head

Edgar GODOY Gaitan

Luis Francisco ORTEGA Menaldo

Cesar CABRERA Mejia

Otto PEREZ Molina

Jose Manuel RIVAS Rios

Marco Antonio
GONZALEZ Taracena

Mario MERIDA Gonzalez

Head of

Julio Roberto ALPIREZ

Juan VALENCIA Osorio

Morris Eugenio DE LEON Gil

Edgar Ricardo BUSTAMANTE Figueroa

Jose Maria ARGUETA

Director for Analysis
("Archivos")
and predecessor
organizations

The Department of Presidential Security — In transition to civilian
intelligence service

WHAT DO CIA PERSONNEL RECALL REGARDING REPORTING ON BAMACA?

378. General. Most of the Agency personnel who were in the relevant Headquarters or Station reporting chain during the period from March 1992 to May 1993 have no recollection of any reporting specific to Bamaca or "Everardo." For example, then-Associate Deputy Director for Operations (ADDO) Hugh Price says he has no recollection of the Bamaca matter prior to 1994, outside of the fact that Bamaca had been captured by the Guatemalan military. Price adds that he cannot imagine that the Bamaca incident would have stimulated any interest at the time, or that the Station would have been involved in a "full court press" to collect information on this type of internal Guatemalan matter.

379. Similarly, [REDACTED] the Chief of LA Division from June 1989 until December 1992, does not recall either Bamaca or Everardo being mentioned to him, but vaguely recalls being aware in 1992 of a Guatemalan guerrilla who was allegedly killed. [REDACTED] notes that, had the Division or the Station known that Bamaca had been tortured or killed while in military custody, Bamaca would have been high on the Station's collection list [REDACTED]

[REDACTED] Alternatively, [REDACTED] adds that, had Bamaca been a more high level officer in the insurgency movement, perhaps there would have been more interest by policymakers which in turn would have generated more collection by the Station.

380. [REDACTED] Deputy Chief of LA Division from March 1993 to April 1994, was not aware of any linkage between Bamaca and DeVine during his LA Division assignment and had no direct knowledge of reporting concerning Bamaca or DeVine prior to that assignment. [REDACTED]

[REDACTED] During his LA Division tenure, [REDACTED] does not recall any specific tasking about Bamaca nor was aware of any distortions in reporting.

381. Other senior LA managers offer similar recollections. The Chief [REDACTED] from July 1991 to March 1993, [REDACTED]

says that he did not recall any reporting concerning Bamaca that may have occurred during his tenure as significant and that he was not aware of any information regarding Bamaca prior to his interim assignment [REDACTED]. Likewise, the former Chief [REDACTED] from July 1991 to August 1992 [REDACTED] states the name Bamaca or Everardo did not mean anything to him, and the March 18, 1992 intelligence report never came to his attention at that time. [REDACTED] adds that the name Bamaca was not familiar and reporting on [REDACTED] [REDACTED] was fairly common at the time, perhaps monthly. He also notes that at no time did he make any linkage between Bamaca and Alpirez.

382. [REDACTED] senior LA Division manager in the [REDACTED] from March to November 1993, also has no recollection of Bamaca. According to [REDACTED] the only [REDACTED] request that remotely related to Bamaca came in May 1993 when [REDACTED] asked the Station to report on clandestine prisons, not Bamaca. In addition, the Headquarters [REDACTED] desk officer at the time vaguely remembers having heard about Bamaca, but as just another guerrilla, and the Headquarters reports officer [REDACTED] [REDACTED] says she does not recall anything about Bamaca. She opined that, if he had come up [REDACTED] he would have been considered as just another guerrilla.

383. Former DCOS [REDACTED] cannot recall ever hearing the names of Bamaca or Everardo during his tour in Guatemala from [REDACTED]. The Station's reports officer from [REDACTED] says she does not recall when she first learned of Bamaca, but her recollection is that he was just another insurgent captured by the Guatemalans. She observes also that the March 18, 1992 reporting [REDACTED] indicated Bamaca was either captured or killed on the battlefield and did not raise human rights issues that would have been of concern to the Station. She also notes that this information concerning Bamaca must have been shared with the Ambassador or the DCM [REDACTED]
[REDACTED]
[REDACTED]

384. Finally, [REDACTED] says he recalls no [REDACTED] reporting regarding military or political torture, murder, or human rights violations, although he has seen some in regard to [REDACTED]. He also notes that he never heard of Bamaca until Harbury came to Guatemala. He does recall [REDACTED] reporting regarding [REDACTED] the ramifications, politics, and fallout of the deaths of Bamaca and DeVine. [REDACTED] knows of no [REDACTED] reporting that indicates the Agency knew of the circumstances of Bamaca's murder.

385. March [REDACTED] 1992 Intelligence Report. [REDACTED] remembers the report that Everardo had been captured, not because of the details pertaining to Everardo, but because Soviet AK-47s provided by Cuba were being used by the insurgents. Everardo's capture was not an "out of the ordinary" event, and [REDACTED]. The indication that Everardo was cooperating made sense [REDACTED].

386. [REDACTED] Station sources would have been tasked had there been any indication of abuse of Bamaca's human rights. However, the March [REDACTED] 1992 report provided no reason to believe anything untoward was happening to Everardo. [REDACTED].

387. Then-COS [REDACTED] also recalls [REDACTED] March [REDACTED] 1992 report regarding the capture of Everardo and believes he may have spoken with Ambassador Stroock about it since Everardo was not immediately tortured and killed by the Guatemalans—a fact [REDACTED] says he would have viewed as a human rights "step forward." When he first became aware of Bamaca in 1992, [REDACTED].

recalls that he was viewed as just another captured guerrilla, although the fact that he was a guerrilla leader made the report significant enough to generate some interest. In addition to the insurgency being of general interest, [REDACTED] points out that the Station had some specific concerns dealing with guerrilla activity [REDACTED]

388. [REDACTED] was the Headquarters [REDACTED] Chief in March 1992. He recalls [REDACTED] reporting, but only because of the Cuban arms connection, not Everardo. Given that there was no mention of any abuse of Everardo, [REDACTED] indicates that the reporting would not have generated special attention at the time. Absent any specific mention of human rights abuses, follow-up responsibility on the Everardo matter would have passed to the Embassy's Human Rights Officer who dealt with Guatemalans who were subjected to human rights abuse.

389. April 1, 1992 Station Report. [REDACTED] that "Comandante Everardo" had been killed in combat does not recall the April 1, 1992 report [REDACTED]. He emphasizes that reports of specific guerrilla incidents, such as [REDACTED] reporting on Everardo, occurred with some frequency, [REDACTED]

390. February 1993 Embassy Telegram. [REDACTED] and says his first recollection of Bamaca came as a result of an article that appeared in the Guatemalan press, circa December 1992 or January 1993. [REDACTED] the article reported that two former guerrillas had seen Bamaca alive and chained to a cot when they were being held prisoner by the D-2. [REDACTED] impression at the time was that Bamaca was also being interrogated. The same article reported allegations of human rights abuses by various Guatemalan military officers, but [REDACTED]

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that those allegations were mentioned in a generic context and did not link specific officers to abuse of Bamaca. [REDACTED]

[REDACTED]

[REDACTED] does not recall whether Alpirez was mentioned in the article, but thought the article was nothing more than propaganda. [REDACTED] adds that guerrillas were publishing monthly newsletters at the time citing thousands of allegations against the Guatemalan Government. Further, almost everyone in Guatemala claimed that the D-2 was involved in any kidnapping or death that occurred. [REDACTED] there was a lot of disinformation available regarding human rights abuses.

391. [REDACTED] does not recall whether he saw [REDACTED] Embassy reporting on the claims of the former guerrillas, also known as "Willy" (Recinos) and "Carlos" (Cabrera). He does remember being aware of the guerrillas' claims and recalls subsequent discussions of them [REDACTED]

[REDACTED]

[REDACTED] Any discussions of Bamaca usually were centered around Harbury's hunger strikes. [REDACTED]

[REDACTED]

[REDACTED]

392. [REDACTED] recalls that he thought the statements of "Willy" and "Carlos" were false. [REDACTED] thought they had probably been paid to go to Geneva since they otherwise could not have afforded to do so. He first knew of the former guerrillas "when it hit the press," and does not recall any mention of Alpirez in the context of their statements. [REDACTED] recalls that Bamaca was one of the first issues Ambassador McAfee dealt with when Harbury came to the Embassy circa March 1993. [REDACTED] adds that, in other than U.S. citizen cases, the Embassy would react to information

indicating torture, human rights violations, etc., but not to reports that an insurgent had been killed or captured.

393.

[REDACTED]

394.

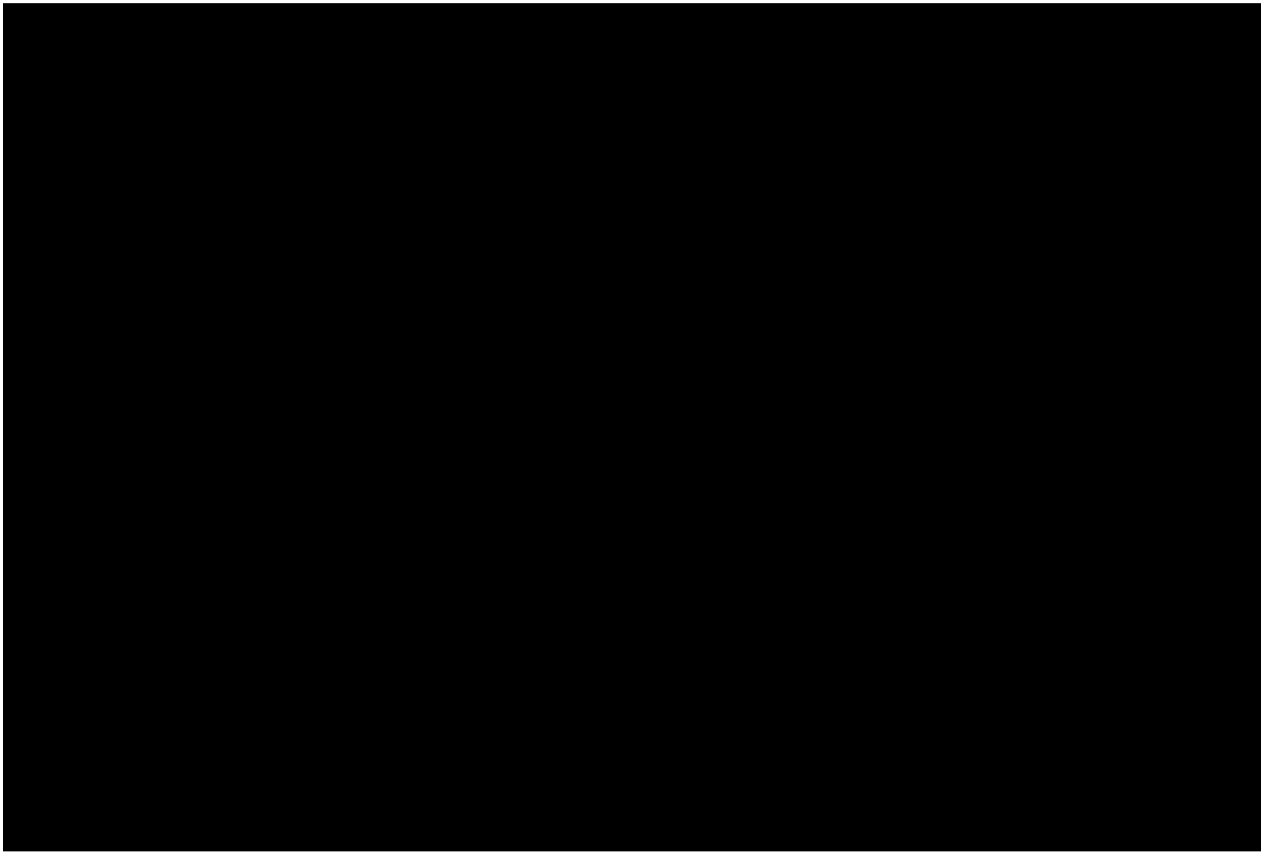
[REDACTED]

[REDACTED]

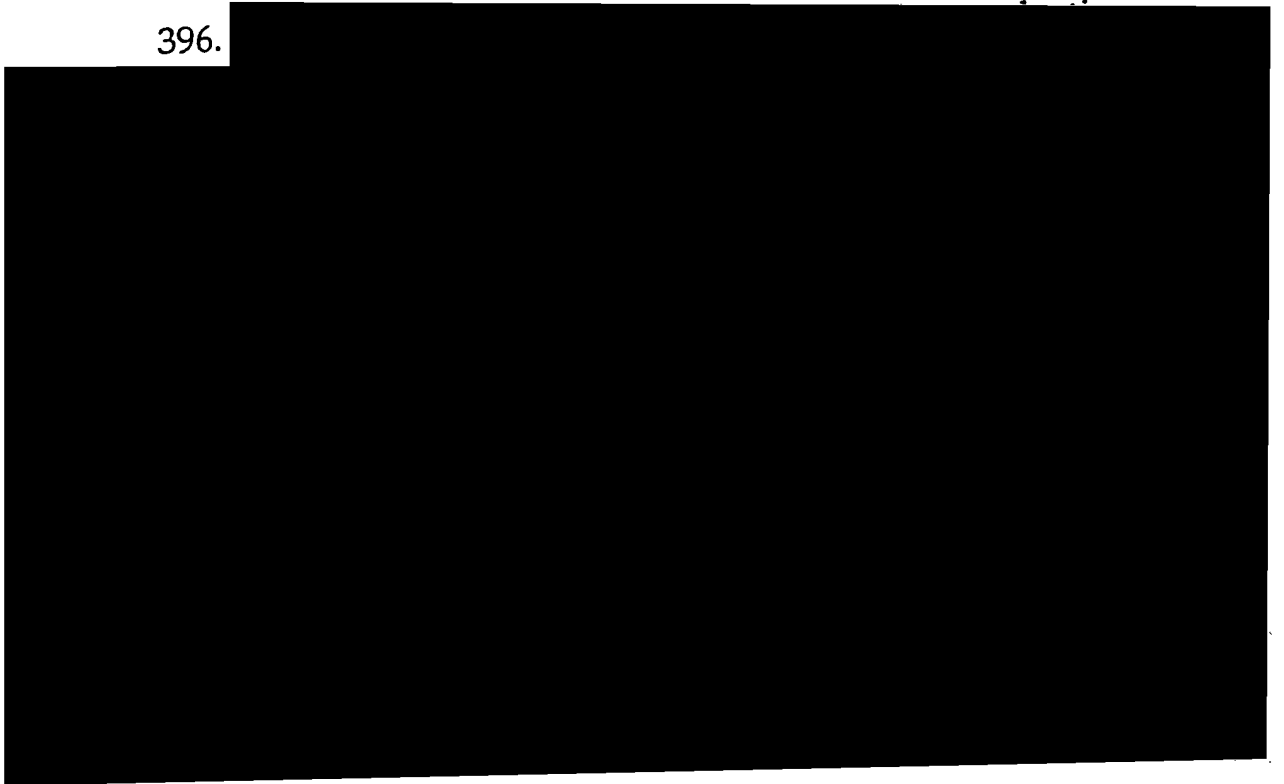
395.

[REDACTED]

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396.



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~~SECRET~~

397. [REDACTED]

[REDACTED]

398. January 1994 Embassy Telegram. [REDACTED]

[REDACTED] the Embassy reporting of the Ambassador's January 12 meeting with Harbury, during which Harbury alleged that Alpirez and another Army officer had supervised Bamaca's torture, although all acknowledge that such Embassy telegrams were made available to the Station. [REDACTED] that neither Bamaca's fate nor Harbury's efforts were significant issues at the time. [REDACTED] speculates that, had he seen the Embassy report, he would not have considered it significant as almost everyone in the D-2 had been accused of human rights violations. [REDACTED] does not consider Harbury a credible source given that he had learned from conversations [REDACTED] that she supported insurgent guerrilla movements in Guatemala and was an URNG sympathizer. [REDACTED] offers that the Bamaca case did not have the same "resonance" in January 1994 as it does now, and he would not have recognized the significance of the information had he seen the Embassy report at the time.

399. [REDACTED]

[REDACTED]

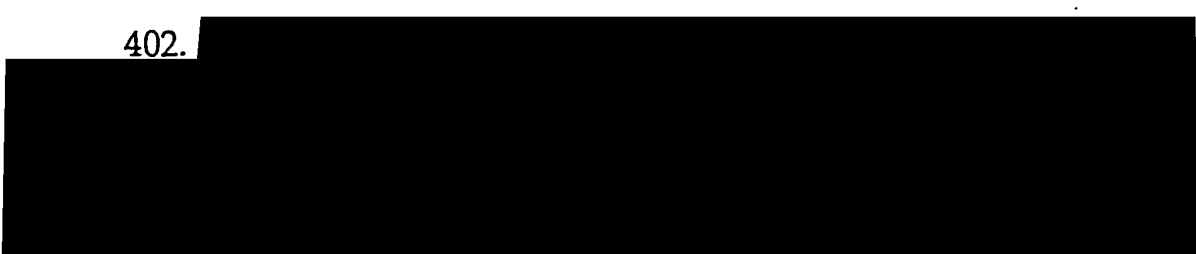
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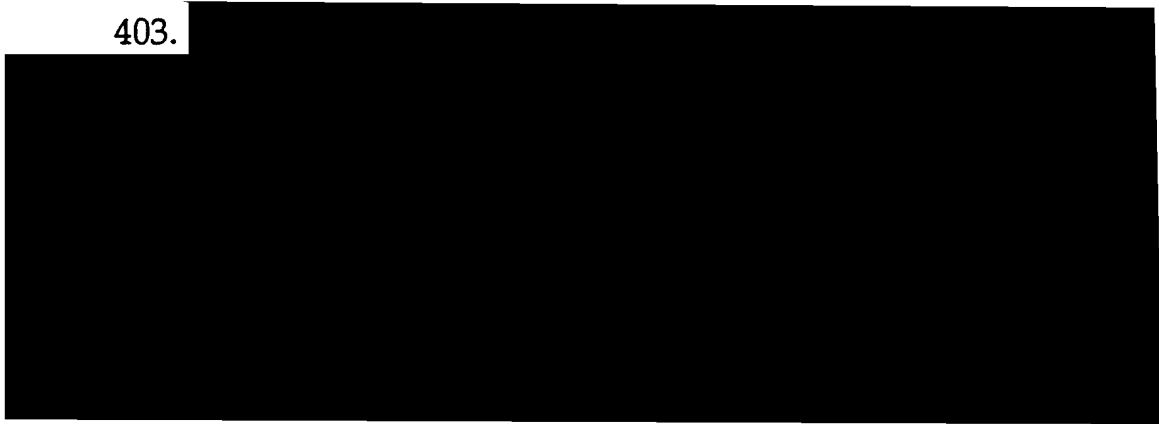


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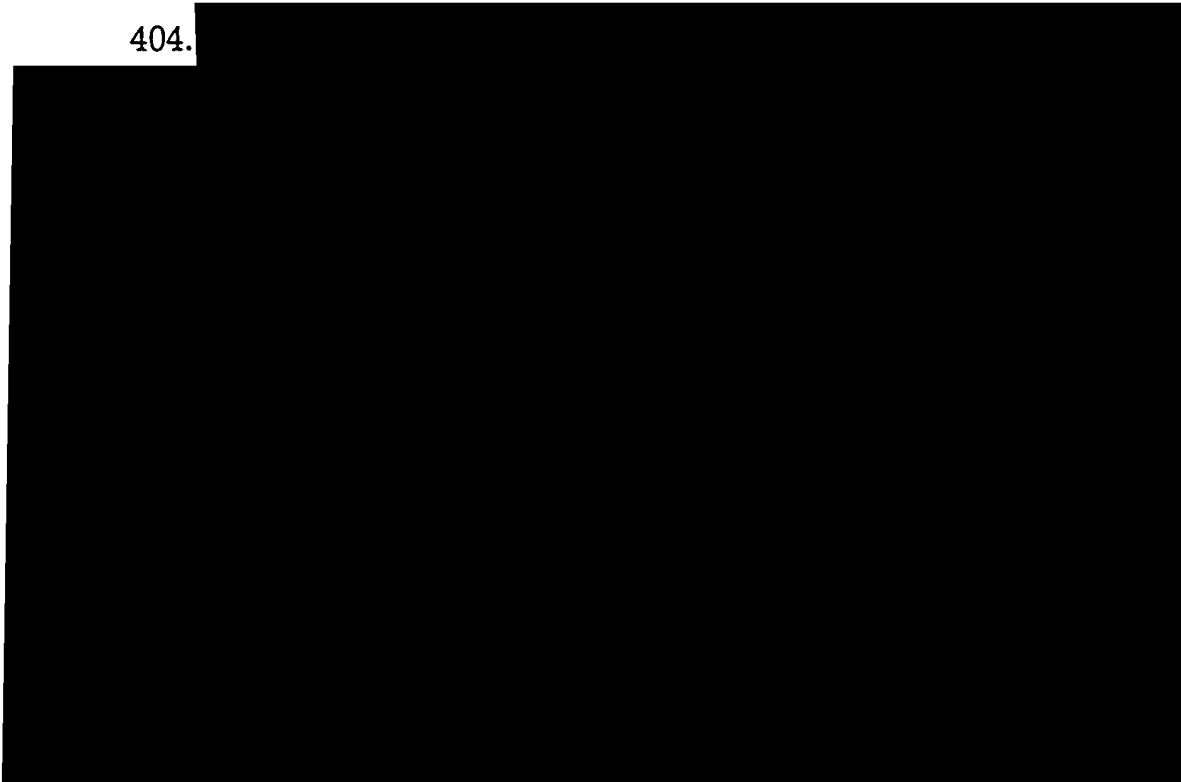




403.



404.



[REDACTED]

WHAT INFORMATION DID CIA HAVE LINKING ALPIREZ TO BAMACA?

405. The Agency received four intelligence reports, one Embassy report of Harbury's views and a sworn statement by a URNG guerrilla, Santiago Cabrera Lopez, prior to the end of January 1995 that linked Alpirez to Bamaca. In the first report, which was an Embassy telegram dated January 21, 1994, Ambassador McAfee reported that Harbury told her that witnesses had identified Alpirez and Major Sosa as having supervised the torture of Bamaca. Harbury, according to McAfee, stated that the two military officers were listed as military graduates from the School of the Americas. Harbury also stated that she was contemplating filing criminal charges against them in Guatemalan courts.

406. The second report was a report [REDACTED] that Alpirez [REDACTED] had personally interviewed Bamaca after his capture until he was taken away by the D-2. Alpirez [REDACTED] was assigned to the San Marcos military base at the time of Bamaca's capture and interviewed him because of Bamaca's high rank in ORPA. This report was disseminated [REDACTED] on May 2, 1994.

407. The third document, sworn testimony by Santiago Cabrera Lopez, was received by DI analyst [REDACTED] on November 1, 1994. Cabrera's testimony was given in the law offices of Jose Pertierra, in Washington D.C. on October 7, 1994. According to Cabrera, Alpirez was at the military base where Bamaca was being held and was present at Bamaca's interrogation. Alpirez reportedly told Cabrera not to tell anyone that he had seen Bamaca there.

408. Another intelligence report was based upon information [REDACTED] by a [REDACTED] Guatemalan [REDACTED] that Alpirez was in charge of the interrogation of Bamaca.

[REDACTED]

[REDACTED] This report was disseminated [REDACTED]
on December 2, 1994.

409. On December 12, 1994, the Station reported that [REDACTED]
[REDACTED] had been told [REDACTED]
[REDACTED] that Major Raul Oliva
Germeno, Alpirez, and Colonel Leonel Godoy all worked with
Bamaca after his capture in San Marcos. This report was not
disseminated outside the Agency.

410. The final relevant report indicates that [REDACTED]
learned from a [REDACTED] Guatemalan [REDACTED] that he had been told by
[REDACTED] that it was known in the military ranks
that Alpirez killed Bamaca. [REDACTED] reported that he
had been told that senior officers had decided not to do anything
with the information [REDACTED]
[REDACTED]
disseminated [REDACTED] on January 25, 1995.

*DID THE CIA MEET ITS RESPONSIBILITY FOR COLLECTION OF
INTELLIGENCE PERTAINING TO THE BAMACA MATTER?*

411. After his capture in March 1992 ended his military
significance, information pertaining to the Bamaca case would have
been collected by CIA because of its relationship to human rights
policies of the Guatemalan Government. There is no statute,
executive order or Agency regulation that requires the Agency to
collect and report on human rights violations. However, [REDACTED]
[REDACTED]
[REDACTED] Headquarters guidance [REDACTED]
[REDACTED] emphasized the importance of collection and
reporting of information concerning human rights violations.

412. Whether CIA met its responsibility to collect information
pertaining to the Bamaca case can best be assessed in the context of
the actual reporting by the Agency's Guatemala City Station and the

recollections of Agency personnel who would have been involved in the collection of such intelligence.

413. Collection of intelligence on Bamaca began as early as 1983 with reports of insurgent activities by a Commander Everardo. In March 1992 information was received [REDACTED]

[REDACTED] regarding a firefight and the possible death or capture of an insurgent. Initial reports did not reveal any human rights violations—detention, captivity, torture, or interrogation. Therefore, Bamaca was viewed as nothing more than an insurgent who had been killed or captured in action against Guatemalan Government forces. Station and Headquarters personnel recall no questions being asked at this time by Headquarters or the Embassy with regard to Bamaca, and there was no particular tasking of Station sources for information relating to him.

414. Beginning with a [REDACTED] report, the first indications of possible human rights violations relative to Bamaca emerged. [REDACTED] the Station received information that [REDACTED] confirmed the testimony of two URNG members that they had seen Bamaca alive in a clandestine prison. Then, [REDACTED] the Station received a report that Alpirez had interviewed Bamaca after his capture. [REDACTED] the Station reported that [REDACTED] officers had been sent to all Military Zones for the purpose of destroying reports that could implicate the Army in human rights violations. Also, [REDACTED], the Station learned that the Guatemalan Minister of Defense had given verbal orders for the removal and purging of intelligence documents regarding clandestine cemeteries.

415. Station personnel recall being keenly aware of the importance of collecting and reporting on human rights issues.

[REDACTED] Station officers were regularly reminded to task assets for human rights reporting. In particular, [REDACTED]

[REDACTED] to task Station assets to report on Bamaca. He further stated that human rights was of utmost importance to the

Station,	

a fabrication. [REDACTED]

The Station responded that it knew the Bamaca issue was of extremely high interest to the U.S. policymaking community and was compelled by its human rights [REDACTED] mandate to report on such things.

417. [REDACTED]

[REDACTED]

[REDACTED]

418. [REDACTED]
[REDACTED]
[REDACTED] that Bamaca was a priority requirement and
that any and all information on the Bamaca case must be reported to
Headquarters. [REDACTED]
[REDACTED]

419. [REDACTED]

[REDACTED] These reports provided insight into [REDACTED]

[REDACTED] Bamaca's alleged captivity, interrogation, torture, and death; the military's belief that Bamaca was responsible for kidnappings and the murder of a U.S. citizen and numerous Guatemalans; a surprise inspection of military facilities that provided no evidence of clandestine prisons or Bamaca [REDACTED]

[REDACTED] and information that the URNG continued to tell Bamaca's spouse that Bamaca was alive when there was no real evidence to support that. The most significant report came in January 1995 [REDACTED] that a Guatemalan [REDACTED] had been told [REDACTED] that Alpirez had killed Bamaca.

420. Thus, Headquarters guidance [REDACTED] and the [REDACTED], all emphasized the collection and reporting of information on human rights violations. It is apparent that Agency personnel in Guatemala and at Headquarters were aware of the importance of collecting and reporting on human rights issues and that they honored this collection requirement. It is also apparent that when tasking was issued to the Station [REDACTED] [REDACTED] producing a significant number of reports.

IS THERE ANY EVIDENCE THAT CIA EMPLOYEES OR ASSETS WERE DIRECTLY OR INDIRECTLY INVOLVED IN BAMACA'S FATE?

421. No CIA employees were ever alleged to have been involved as participants in the fate of Bamaca. No information was developed during the course of this investigation that remotely suggested that any CIA employee was involved in Bamaca's fate.

422. [REDACTED]
[REDACTED]

[REDACTED]

423. From March 1992 to May 18, 1995, [REDACTED] assets as well as [REDACTED] provided information pertaining to Bamaca's fate. [REDACTED]

[REDACTED] Further, there is a substantial body of contradictory reporting, [REDACTED]

[REDACTED] In addition to the differing versions of Bamaca's fate, some information reported by [REDACTED] is questionable when considering the chain of acquisition and potential biases of the [REDACTED]

424. The first information received by the Agency that cited Alpirez's involvement in Bamaca's fate was provided by Jennifer Harbury to Ambassador McAfee on January 12, 1994. During that conversation, Harbury named Alpirez as one of two military officers who supervised the torture of Bamaca after his capture. Harbury later repeated this assertion, which she attributed to ex-guerrilla Cabrera, during an April 1995 SSCI Hearing when she identified Alpirez as "the man bending over the torture table" of Bamaca. Harbury added that those officers involved in Bamaca's torture had a doctor standing by to make sure "they didn't accidentally" kill Bamaca. However, based on his October 7, 1994 sworn statement, the only account of his declarations available to the Agency, Cabrera did not say what Harbury reports. Rather, Cabrera said that Alpirez ordered another officer to move Bamaca to a "secret room" in the military infirmary and Alpirez was present in the room when Bamaca, his body swollen and arm and leg bandaged, was being interrogated. Cabrera implicated other Guatemalan military personnel as well in the interrogation and incarceration of Bamaca, but he did not claim to have witnessed either the torture or the killing of Bamaca by Alpirez.

██████████ reported that ██████████ ██████████ had named Alpirez as one of Bamaca's interrogators. ██████████ reported ██████████ that he had ██████████ been told ██████████ that Alpirez was in charge of Bamaca's interrogation. However, none ██████████

turn informed [REDACTED]
[REDACTED]

Further, the Guatemalan [REDACTED] who named Alpirez as Bamaca's killer had made no mention of Alpirez when he told [REDACTED] earlier, [REDACTED] that Bamaca was alive in a clandestine prison.

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[REDACTED] said in November 1994 that Bamaca was loaded alive on a D-2 helicopter, [REDACTED] said in December 1994 that Bamaca was moved to Guatemala City after interrogation. In May 1995 [REDACTED] also said he had learned, [REDACTED] that Bamaca had been taken away to Guatemala City [REDACTED]

428. Moreover, the reporting regarding Bamaca's fate indicates that a possible disinformation effort has been conducted [REDACTED] [REDACTED] For example, the initial reporting [REDACTED] within two weeks of the March 1992 firefight, like much of the reporting that followed, is contradictory. [REDACTED] said Bamaca was alive, well and cooperating with the Guatemalan military while [REDACTED] reported that Bamaca had been killed in combat. [REDACTED]

[REDACTED]

[REDACTED]

429. [REDACTED] offered no information [REDACTED] until [REDACTED] November 1994. [REDACTED] said that Bamaca was captured unharmed around March 1992, might have been alive four to five weeks after his capture, [REDACTED]

[REDACTED]

Bamaca's high level position in ORPA was not discovered until long after his death. [REDACTED]

[REDACTED]

430. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

431. [REDACTED]

[REDACTED]

[REDACTED]

WAS INFORMATION REGARDING BAMACA'S FATE PROPERLY SHARED WITH THE CONGRESSIONAL OVERSIGHT COMMITTEES? DID THE CIA MEET ITS RESPONSIBILITY FOR CONGRESSIONAL NOTIFICATION IN THE BAMACA MATTER?

432. Notification. The first recorded notification to congressional representatives concerning Bamaca appears to have occurred on November 4, 1994 when SSCI staff members [REDACTED] [REDACTED] attended a briefing at CIA Headquarters. They had requested the briefing in anticipation of a television appearance by Harbury. A representative from the DO's LA [REDACTED] former COS [REDACTED] and DI [REDACTED]

[REDACTED]

434.

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436. On November 30, 1994 a DI/ALA analyst and a DO representative briefed Representative Bill Richardson and a member of his personal staff, in preparation for their upcoming trip to Guatemala, on then-available information concerning the fate of Bamaca. Richardson informed the CIA official he planned to meet with Harbury while he was in Guatemala.

437. The next documented sharing of information with Congress regarding the Bamaca case occurred on February 3, 1995 when Acting Chief of LA Division [REDACTED] and other Agency officers met with HPSCI Members Combest and Dicks and staff members from both the HPSCI and the SSCI. The contents of the January 25, 1995 report that Alpirez had killed Bamaca and that this was known within the Guatemalan military were discussed with them, along with the fact that [REDACTED]

[REDACTED] a report was received that Alpirez had been present at the interrogation of DeVine.

438. The information regarding Alpirez's alleged role in the death of Bamaca had been [REDACTED] [REDACTED] disseminated [REDACTED] January 25, 1995. The National Security Council had been briefed on Alpirez, Bamaca and DeVine on January 26, 1995 and, when Agency officers pointed out their responsibilities for advising Congress, NSC staff members requested that the Agency delay congressional notification until the Administration could determine how to react to the information. Permission to brief the intelligence committees was given on January 31, 1995 and this was done on February 3. There have been a number of briefings on the subject since that time, including public testimony before the SSCI by the Acting DCI.

439. Responsibilities. There is no specific statutory or policy requirement that the CIA provide notification to Congress concerning intelligence that pertains to the death or fate of a non-U.S. citizen such as Bamaca, a combatant involved in an insurgency in a foreign country. [REDACTED]

[REDACTED] there was no information available to CIA until January 1995 that suggested Alpirez was involved in Bamaca's death. At the time this information was received, congressional notification, [REDACTED] occurred almost immediately.

440.

441. Bamaca's fate was not an issue at Guatemala City Station until March 1993 when Harbury requested help from the Embassy in locating his remains. Harbury's dialogue with the Embassy continued on a sporadic basis and Harbury began to promote the possibility that Bamaca was still alive and being held in a clandestine prison. Although the Bamaca matter was a subject of interest to the Embassy and Station in Guatemala City, there is no indication that it was viewed as a Washington issue until the fall of 1994 when Harbury engaged in a second hunger strike in Guatemala.

442. An obligation to "fully and currently" inform Congress of what the Agency knew about Bamaca [REDACTED] would arise if Bamaca became an issue in the context of the nature or adequacy of Agency reporting on the human rights situation in Guatemala, or when, as occurred in November 1994, it became known that the intelligence oversight committees had an interest in the fate of Bamaca because of his relationship to Harbury, a U.S. citizen. When it became clear that there was congressional interest in Bamaca's fate, formal notification should have occurred in accordance with Agency Regulation [REDACTED]. It did not, as

mentioned earlier, because DI analyst [REDACTED] had not been provided with complete details due to an error in a computer search and because former [REDACTED] did not recognize the relevance of the reports concerning Alpirez, [REDACTED] and his alleged role in the Devine and Bamaca cases.

WAS INFORMATION REGARDING BAMACA'S FATE PROPERLY SHARED WITH AMBASSADORS AND OTHER APPROPRIATE EMBASSY OFFICIALS? DID CIA MEET ITS RESPONSIBILITY FOR NOTIFICATION IN THE BAMACA MATTER?

443. Statutory requirements and applicable policy directives pertaining to relationships between Ambassadors and CIA COS's are set forth in detail in Exhibit E of Volume I. The key theme is that Ambassadors, as the President's Representatives, are to be informed of intelligence activities and information on which to base decisions concerning development of foreign policy. Guatemala City Station partially fulfilled the requirement by ensuring that intelligence reporting disseminated from Guatemala was coordinated beforehand [REDACTED]
[REDACTED]

444. [REDACTED]
[REDACTED]
[REDACTED]

445. The record indicates that Ambassador Stroock received available information on Bamaca's fate under his nom de guerre of "Comandante Everardo" when it became available to CIA. Ambassador McAfee subsequently received Station reporting on Bamaca as it became available. Additionally, she requested and was provided a specific summary of Station information concerning Bamaca in October 1994. The summary, however, failed to contain the March [REDACTED] 1992 report of Bamaca's capture that previously had been provided to Stroock, even though by that time the Station could have made the connection between Everardo and Bamaca.

446. [REDACTED]
[REDACTED]

447. March [REDACTED] 1992 Intelligence Report. Ambassador Stroock says that he recalls seeing an Agency intelligence report on "Comandante Everardo" sometime in 1992 prior to his reassignment in November 1992, but he paid no attention to it. According to Stroock, Guatemalans killed rebel commanders all the time and he also knew that the Guatemalan Government was not "very pleasant" to rebels who were captured, as he was sure that the rebels dealt likewise with Guatemalan military personnel. Stroock believes he probably read the report provided to him, but he does not recall discussing the Everardo report with then-COS [REDACTED]

448. Ambassador McAfee and DCM Keane state that [REDACTED] did not inform either of them of the March [REDACTED] 1992 intelligence report regarding Everardo's capture at the time of their arrival in Guatemala in June 1993 and August 1992, respectively. McAfee states that she is not implying that the Station intentionally did not inform her, but that the COS should have been familiar with the report. She adds that she received no briefing on either the DeVine or Bamaca matters when she visited Agency Headquarters in Washington prior to assuming her position in Guatemala.

449. DCM Keane cites the March [REDACTED] 1992 report as specific information that was withheld from him by the Station. Keane indicates that he was not informed of the report that Alpirez interviewed Bamaca by [REDACTED] when he arrived or during the succeeding year, nor by [REDACTED] successor as COS, [REDACTED]. However, Keane also says he never asked about Everardo nor would he have expected to have seen such a report when he arrived as it was not significant at the time. Keane says that his relationship with [REDACTED] was cooperative, but adds that [REDACTED] was not as open with information as Keane believes he should have been. Communication was better with [REDACTED] according to Keane, although some information also was not shared by [REDACTED]

450. [REDACTED] who was reassigned to Washington [REDACTED] after Ambassador McAfee's arrival in Guatemala, acknowledges that he did not brief her on all Station reporting during the years prior to her arrival. He states that McAfee considered herself an expert on Guatemalan affairs, and [REDACTED] believed she had an Embassy staff, as well as State's Bureau of Intelligence and Research, to inform her of intelligence relating to Guatemala. Further, he notes that McAfee worked on the Guatemala desk at the Department of State in Washington for several months before arriving in Guatemala and had served in Guatemala previously.

451. [REDACTED] belief is that McAfee, as well as Stroock, were appropriately briefed on CIA matters on a continuing and timely basis. He adds that he shared virtually everything, except sources and methods, with Ambassadors while he was COS and never purposely withheld any information from any Embassy officials.

[REDACTED]

[REDACTED]

452. After his arrival [REDACTED] worked with Ambassador Stroock until Ambassador McAfee's arrival in 1993 and with DCM Keane. McAfee and Keane believe that, [REDACTED] should have shared the March [REDACTED] 1992 report, which had been coordinated with Stroock and disseminated to the Embassy and INR when it was originated. [REDACTED] disagrees and notes that the report was minor and not unusual. [REDACTED]

[REDACTED]

[REDACTED] and he maintains there was never any deliberate attempt to withhold or hide information from her.

453. The March [REDACTED] 1992 report was cited by Ambassador McAfee in a February 17, 1995 Department of State "Roger Channel" message to the Secretary of State as an example of information she had received "only well after it was obtained." In the same message, McAfee also indicated that she had not seen the March [REDACTED] 1992

intelligence report until November 1994 and had been told that the report had been misfiled in Washington under "E" for "Everardo." McAfee did not specify whether she was told that the report was misfiled by the Agency or by State, INR. Agency records indicate that the report was not misfiled in Agency files. Rather, the delay in its retrieval was caused by the misspelling of "Everardo" when an electronic search of DO files was initiated for documents pertaining to Bamaca and "Everado," leaving out the second "r."

454. [REDACTED] Ambassador McAfee confirms that [REDACTED] did share the [REDACTED] report about Bamaca being alive in a clandestine jail with her. She recalls that he brought the report for her review and indicated it was for her consumption only. Although he did not specifically tell her she could not share it with the DCM, [REDACTED] secretive manner when he brought her the report was such that she assumed it was for her use only. McAfee says that neither [REDACTED] nor [REDACTED] his successor, ever explained to her that certain Agency reporting was very sensitive and could not be shared with even the DCM. She adds that she wishes in retrospect she had insisted that the DCM be shown the report.

455. DCM Keane cites the [REDACTED] report as the first--the second being a May 2, 1994 intelligence report that Alpirez had interviewed Bamaca after his capture--of two Agency reports that were either mistakenly or intentionally not shared with him. Keane says he learned of the [REDACTED] report from McAfee, and his understanding is that the information on clandestine jails was acquired in [REDACTED] when he was Charge d'Affaires. [REDACTED]

[REDACTED]

456. May 2, 1994 Intelligence Report. The initial recollections of Ambassador McAfee and DCM Keane are that neither reviewed the May 2, 1994 intelligence report, indicating that [REDACTED] (Alpirez) had interviewed Bamaca after his capture, before November 1994 and were not advised until April 1995 that Alpirez was the [REDACTED] officer named in the report. McAfee says that she does not

recall seeing the May 1994 report when she returned to Guatemala nor did Keane brief her. She also believes the Station should have briefed her on such an important report. Keane, on the other hand, cites the May 1994 report as the second--the first being the [REDACTED] report that Bamaca had been seen alive in a clandestine jail--of two Agency reports either mistakenly or intentionally not shared with him. Initially Keane says he learned of the May 1994 report in November 1994 when a Department of State officer in Washington called it to his attention.

457. [REDACTED] disagrees with the Ambassador and DCM. While he acknowledges that he did not inform Keane that Alpirez was the [REDACTED] officer named in the report, [REDACTED] recalls that he personally handcarried the report to Keane for coordination prior to its release and remembers being "struck" by Keane's lack of reaction to the report at the time. [REDACTED] adds that the Station maintained a "read folder" for McAfee's review of intelligence reporting that was issued in her absence, particularly reporting concerning human rights as the issue was high on the McAfee's agenda. The Station reports officer confirms that the Ambassador's post-vacation "read folder" included a copy of the May 2, 1994 report. A copy of that report is included in Station files and contains McAfee's initials.

458. Having reviewed the initialed copy of the May 2, 1994 report, Ambassador McAfee confirms that her initials are included on the report but reiterates that she does not remember reading the report. After reviewing the copy, Keane indicates that he can not now be sure that he had not seen the report at the time.

WHY DID THE AGENCY NOT PROVIDE INFORMATION IT COLLECTED REGARDING BAMACA'S FATE TO BAMACA'S AMERICAN WIFE?

459. There is no statute, Executive Order, or Agency regulation or policy that provides for disclosing clandestinely collected information to families of U.S. citizens or non-citizens who may have been murdered, captured, imprisoned, or are missing in a foreign country. Agency information can be indirectly conveyed to concerned family members for humanitarian reasons. Warnings and

compassionate conveying of information generally are the responsibility of the Department of State. Typically, Embassy personnel would receive such a request and would work through the Department of State in Washington and the Station to query Agency Headquarters for pertinent information. If the Agency concurred with the release, the information would be sanitized to protect sources and methods and then the information would be provided to the Department of State for release to the family members.

460. Former COS [REDACTED] confirms he did not share any CIA information with Harbury. He says this would have required permission from Headquarters, and it never entered his mind to seek such permission. Former COS [REDACTED] also never directly shared information with Harbury. Guatemalan Embassy personnel, including DCM Keane and Ambassador McAfee, as well as senior personnel from the Department of State and the President's National Security Advisor, all met at various times with Harbury and shared their evaluations of her husband's fate. Those personnel all had access to CIA reporting and that reporting presumably served as background for them and was a factor in their evaluations.

461. Another means by which private U.S. citizens, such as Harbury, may obtain unclassified Agency information is through the filing of a Freedom of Information Act (FOIA) request. Agency FOIA records indicate that Harbury has requested information from the Agency on a number of occasions. The Agency currently is processing those requests according to standard procedures.

CONCLUSIONS

462. The conclusions set forth below are repeated in the volumes relating to Alpirez, DeVine, Bamaca [REDACTED]

Agency Purposes in Guatemala

463. Agency programs in Guatemala during the period in question were conducted in furtherance of duly approved [REDACTED] [REDACTED] that were duly authorized by the President, reviewed by the National Security Council and reviewed and funded by the Congress. [REDACTED] [REDACTED]

Alleged Complicity in Deaths of DeVine and Bamaca

464. No evidence has been found to indicate that any CIA employee had prior knowledge of, directed, participated in, or condoned the interrogation or killing of DeVine. No evidence has been found to indicate that any CIA employee had prior knowledge of, directed, participated in, or condoned the reported interrogation, torture, or killing of Bamaca.

465. The October 1991 report alleging that Alpirez [REDACTED] [REDACTED] was present at DeVine's interrogation was seriously flawed and should have been reviewed more thoroughly at the Station and disseminated with appropriate caveats. Neither the Station nor Headquarters made a serious effort to verify the allegations contained in the October 1991 report and Headquarters did not follow-up sufficiently on its initial efforts to have the Station do so.

466. Similarly, the January 1995 report alleging that Alpirez had killed Bamaca was also based on questionable information and should have been reviewed more thoroughly at the Station and disseminated with appropriate caveats. Neither the Station nor Headquarters made serious efforts to verify that report and Headquarters did not encourage the Station to do so.

Congressional Notification

467. The Agency should have notified the congressional intelligence oversight committees in October 1991 about the allegations that Alpirez had been present at an interrogation that resulted in the death of a U.S. citizen [REDACTED]

[REDACTED] The committees should have been briefed, especially in light of the prompt and serious actions the Agency took on the basis of that report, in reporting to DoJ [REDACTED]

[REDACTED] LA Division officers intended to provide such notification to the committees, but neither those officers nor senior Agency managers ensured that this was done.

468. In February 1995, the oversight committees were expeditiously notified of the only report alleging that Alpirez had been responsible for the death of Bamaca. While notification was laudable, it should have been made clear that there were competing versions of what happened to Bamaca, and that the January 1995 report was sketchy, third-hand hearsay, and unconfirmed. Furthermore, when it had become clear in November 1994 that there was congressional interest in Bamaca's fate, formal notification of the April 1994 report that Alpirez had interviewed Bamaca [REDACTED]
[REDACTED]

469. [REDACTED]
[REDACTED]

470. The Agency provided [REDACTED] the oversight committees and participated during various committee hearings and briefings of committee staff [REDACTED]

[REDACTED] It should have been recognized that the failure to provide this information in connection with the discussion of the DeVine case [REDACTED]

[REDACTED] would be viewed as misleading the committees. No evidence has been found to indicate that the failure to mention [REDACTED] in these reports, hearings and briefings was intended to mislead the committees. Neither has any evidence been found to indicate that the failures to notify the committees in 1994 of information indicating that Alpirez had interviewed Bamaca or [REDACTED] were intended to mislead the committees.

Ambassadorial Notification

471. The Station did not keep the Ambassadors appropriately informed in certain instances. Concerns about source protection and possible threats to Agency equities in its liaison relationships appear to have been the causes of some of these failures.

472. Ambassador Stroock was not properly notified in August 1990 [REDACTED] when the Ambassador was provided information about the military's involvement and cover-up in the DeVine killing and was preparing to present a demarche.

473. Ambassador Stroock was not properly notified in October 1991 [REDACTED] when allegations were received that Alpirez was present at the interrogation of DeVine.

474. [REDACTED]
[REDACTED]

475. Ambassador McAfee was not properly notified in 1994, even after asking in October 1994 for a complete summary of CIA intelligence relating to Bamaca, that Alpirez had reportedly interviewed Bamaca after his capture in March 1992 [REDACTED]
[REDACTED]

476. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

477. [REDACTED]

[REDACTED]

Collection and Reporting Standards

478. Information provided by Agency assets was responsive to [REDACTED] and included significant reporting on human rights issues in Guatemala, including the DeVine killing, Bamaca's fate, and the reactions of [REDACTED] Guatemalan political and military officials to U.S. policy initiatives in this regard.

479. However, in certain instances, concerns about source protection or possible threats to Agency equities in its liaison relationships appear to have been the cause of failures to report information fully and promptly. [REDACTED]

[REDACTED]

480. Station reporting regarding human rights issues included some unsubstantiated reports from possibly biased sources about

Alpirez [REDACTED] as well as the DeVine and Bamaca cases. The Station, LA Division and the DO should have made stronger efforts to validate the information and place it in the context of other reporting, analyze the biases and motivations of the sources, and ensure that consumers of the information were advised that there were significant questions about its validity and hearsay nature. It also appears that LA Division and the Station gave insufficient attention and consideration to the possibility that Station asset reporting on Bamaca's fate was based upon deliberately false information [REDACTED]

481. The Station and LA Division failed to meet Agency standards for [REDACTED] with particular reference to the assets who provided key information relating to Alpirez, DeVine, Bamaca, [REDACTED]
[REDACTED]

482. At the time the CIA first encountered Alpirez in a liaison capacity in 1987 [REDACTED] Agency records apparently revealed no derogatory information or indication that he had engaged in human rights abuses [REDACTED]
[REDACTED]
[REDACTED]

483. The August 1990 information [REDACTED] formed a substantial part of what the U.S. Government knew about official Guatemalan involvement in DeVine's killing. It also served as part of the basis for at least one U.S. Government demarche to the Guatemalans and the partial suspension of U.S. military assistance to Guatemala.

484. [REDACTED]
[REDACTED]

[REDACTED]

485.

[REDACTED]

[REDACTED]

[REDACTED]

486.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

487.

[REDACTED]

[REDACTED]

488.

[REDACTED]

[REDACTED]

489.

[REDACTED]

[REDACTED]

[REDACTED]

Referral to Department of Justice

490. LA Division and OGC acted prudently in ensuring a prompt referral of the October 1991 allegations about Alpirez to DoJ. However, OGC should have probed more thoroughly to determine through a preliminary inquiry whether or not there [was] any basis to the allegations. In addition, having made the referral, OGC did not properly record or monitor the matter, or adequately respond to DoJ requests for further information.

Analytical Responsibilities

491. No factual basis has been identified for the DI [REDACTED] conclusion in an analysis presented to the NSC in January 1995 that Alpirez was at least "the intellectual author" of Bamaca's death. That analysis was also flawed because [REDACTED]
[REDACTED]
[REDACTED]

492. The DI [REDACTED] with primary responsibility was not made aware by DO officers of the April 1994 report that Alpirez [REDACTED] had interviewed Bamaca or that Alpirez [REDACTED] was reportedly present at the interrogation of Devine. As a consequence, he was not able to include that information in briefings to senior State officials and HPSCI and SSCI staff members in November 1994 or in the [REDACTED] analytic reports that were disseminated to the Ambassador and NSC and State customers prior to January 1995.

493. Six reports have been found that allege that Alpirez had knowledge of or was involved in narcotics trafficking or other potentially unlawful activities. None of these reports establishes any connection between narcotics trafficking and the DeVine murder, nor does any of them indicate that the murder had as its purpose coercion or intimidation of, or retaliation against, a government or civil population. Neither has other evidence been found to indicate that Agency employees were aware of such a connection or purpose.

Thus, there is no support for the contention that Agency employees engaged in an obstruction of justice in connection with the November 1991 referral to the Department of Justice.

Dispersal or Destruction of Records

494. No evidence has been found to indicate that any Agency personnel dispersed or destroyed records to prevent them from being reviewed by investigators. It appears that this allegation may have had its source in an Agency effort to provide copies of selected documents to former DCIs in order that they might be able to respond knowledgeably to public inquiries relating to Guatemala.

DO Records System

495. Weaknesses in the DO records system led to a failure to retrieve relevant allegations regarding human rights abuses [REDACTED]

[REDACTED] These weaknesses continue to cause problems for the Agency.

[REDACTED]
A. R. Cinquegrana

RECOMMENDATIONS

1. General. The following areas have been identified in the course of this investigation as requiring the attention of Agency management and are addressed in this section:

- Congressional notification;
- Ambassadorial notification;
- Selection of Chiefs of Station;
- [REDACTED]
- Collection and reporting responsibilities;
- Human rights reporting;
- [REDACTED]
- Analytical functions; and
- DO records system.

2. The paragraphs that follow constitute the IG's best judgment as to what should be done in each area, but we recognize that a management review of the issues involved may develop different and better approaches to improving current practices and policies in each area. The most important message we are conveying is that the identified areas require management's attention and remedial action. Thus, these recommendations should be viewed as a framework for further deliberation and development of responsive reactions in each area, not as a prescriptive list of actions that should be taken as stated. However, we strongly believe that the Overview Volume, with Conclusions and all Recommendations except the individual accountability section, should be made available to Agency employees in order that they may be fully informed and apply the lessons of this investigation to their own situations.

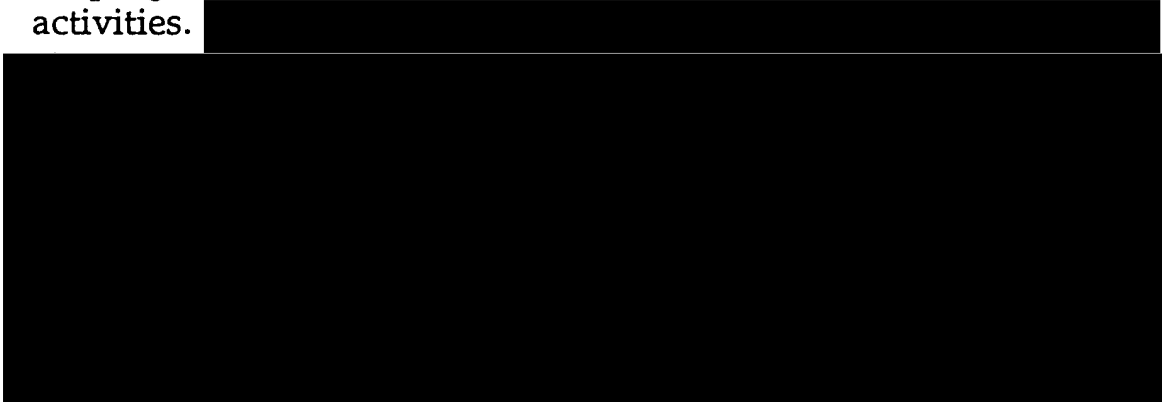
3. Congressional Notification. This investigation has shown that in the DO there is a predisposition against sharing information with Congress despite repeated statements by the Agency's leadership that Congress needs information to perform its oversight role and has the right to such information. The DDO should work to replace this bias with a predisposition that favors sharing information.

4. The DCI should reaffirm that the Agency has an obligation to ensure that the Congress is kept fully and currently informed about Agency activities. The Director should make it clear that each Deputy Director and Head of Independent Office is responsible for determining, on a continuing basis, which matters within their areas of responsibility should be reported to the intelligence oversight committees of the Congress. Clear procedures should be established to ensure that such matters are reported.

5. Each Deputy Director and Head of Independent Office, in conjunction with the General Counsel and the Director of Congressional Affairs, should recommend criteria for the DCI's approval that are applicable to their areas of responsibility to govern which matters will be reported to the intelligence oversight committees.

6. Each Deputy Director and Head of Independent Office should require their managers to review on a continuing basis which matters within their areas of responsibility meet the established criteria for reporting to the intelligence oversight committees. In addition, each Deputy Director and Head of Independent Office should conduct a formal quarterly review of their activities to determine which matters, within or in addition to the established criteria, should be reported to the intelligence oversight committees. As part of this process all employees should be given the opportunity to identify matters that should be considered for such reporting.

7. Ambassadorial Notification. The DCI should issue new guidance concerning Chief of Station (COS) responsibilities for keeping Ambassadors informed about Station programs and activities.



[REDACTED]

8. Selection of Chiefs of Station. The DDO should develop standards, subject to DCI concurrence, for the development, selection and retention of Chiefs of Station to ensure that they are the most highly qualified professionals available. [REDACTED]

[REDACTED]

[REDACTED] Chiefs of Station should not be selected for reasons other than professional competence, [REDACTED]

[REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

11. Collection and Reporting Responsibilities. Both Headquarters and Stations are responsible for ensuring that the highest possible standards are maintained in CIA's collection and reporting efforts. [REDACTED]

[REDACTED]

[REDACTED]

12. Human Rights Reporting. The DDO should develop procedures to ensure that Stations meet established standards for reporting information relating to human rights abuses. [REDACTED]

[REDACTED]

13. [REDACTED]

[REDACTED]

14. [REDACTED]

[REDACTED]

[REDACTED]

15. **Analytical Functions.** DI analysts responsible for producing finished intelligence and conducting briefings of government policymakers should be given access to [REDACTED] that pertains to their areas of responsibility. The DDI should establish standards that ensure that DI analysts consider all relevant information so that inaccurate, misleading, or incomplete statements are not incorporated into DI intelligence products or briefings.

16. **DO Records System.** The DO should intensify its efforts to ensure that Headquarters and Station personnel are supported by a records and information management system that will provide thorough, dependable and timely access to all information of relevance to a particular individual or subject. [REDACTED]

[REDACTED]

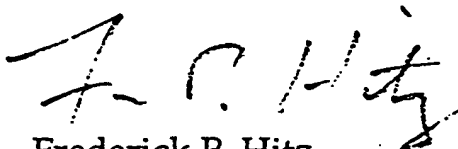
17. **Accountability.** This investigation has established that there is no basis for several of the most significant allegations that have been made against the Agency and its employees relating to its activities in Guatemala. Unfortunately, the investigative and political furor that was launched with these allegations and that has consumed much of the U.S. Government's valuable time and energy for the past several months could have been avoided or reduced if Agency employees had performed more capably in reporting the events in question.

18. A review of Agency activities relating to the Alpirez, DeVine, Bamaca, [REDACTED] matters reveals a general failure to adhere to the professional standards in collecting, reporting and analysis that the Agency expects from its personnel. The causes of this are puzzling. It may be that closer scrutiny or higher standards are now being imposed on the workforce. There are many possible explanations which we will not venture here.

19. Whatever the reason, from recruitment to reporting; from corroboration to processing; from validation to analysis; from congressional notification to crimes referral, the facts demonstrate performance that is not as professional or competent or sound in its judgments as the Agency and the U.S. Government have a right to expect. It is not that anyone engaged in intentional wrongdoing, but that so many errors were committed along the way. Agency management also must be faulted for the failures of Agency personnel that are identified in this Report of Investigation.

20. Many officers contributed to the problems and shortcomings described in this Report, but certain officers had special responsibilities and played significant roles that separate them from the rest. Although there is no evidence to indicate that they were involved in the specific events under review here, the level of professionalism that prevailed in the Agency must ultimately be laid at the feet of the most senior Agency managers, DCIs and DDCIs during this period. In addition, the names of individual officers who should be held responsible for specific deficiencies have been provided to the Director for his consideration and action.

CONCUR:



Frederick P. Hitz
Inspector General

15 July 95

Date

NO. 93-06259IN THE MATTER OF THE
MARRIAGE OFJENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ* IN THE DISTRICT COURT
*
* 29 JUDICIAL DISTRICT
*
* TRAVIS COUNTY, TEXAS
*
* TEXASORIGINAL PETITION FOR DECLARATORY JUDGMENT

TO THE HONORABLE JUDGE OF SAID COURT:

JENNIFER KRISTINA HARBURY, Petitioner, petitions the Court pursuant to the Uniform Declaratory Judgments Act, Chapter 37 of the Civil Practice and Remedies Code of Texas, and pursuant to the Texas Family Code, for a declaration that Petitioner Jennifer Kristina Harbury was lawfully married to Efrain Bamaca Velasquez under Texas law. In support of this petition, Petitioner shows as follows:

I.

Petitioner is an individual residing in Travis County, Texas. On or about September 25, 1991, Jennifer Kristina Harbury and Efrain Bamaca Velasquez resided together in the State of Texas, agreed with each other to be married, exchanged marriage vows with each other, cohabited, and held themselves out as married. It was their intent and understanding that they were Husband and Wife. All of the above acts were done in the State of Texas. Under Texas law, they were legally married.



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II.

Petitioner requests that the Court declare her marriage to Efraín Samaca Velasquez to be lawful under Texas law.

WHEREFORE, Petitioner requests that on final hearing, Petitioner have judgment as follows:

1. A declaration that Jennifer Kristina Harbury and Efraín Samaca Velasquez were lawfully married on September 25, 1991, under Texas law.
2. Such other and further relief to which Petitioner may be entitled.

Respectfully submitted,

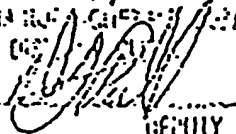


Brian East
State Bar No. 06360800
EAST & MARTINEZ, P.C.
1400 West 6th Street
Austin, Texas 78703
(512) 474-6882
FAX (512) 474-4667

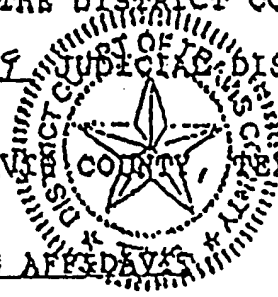
ATTORNEY FOR PETITIONER

LAJANIA RODRIGUEZ MARTINEZ, Clerk
of Tarrant County, Texas, do hereby certify
that this is a true and correct copy of
the original filed with me on
this 1st day of December, 1991.
Clerk of Court



By 
CLERK

harbury

NO. 93-06259IN THE MATTER OF THE
MARRIAGE OFJENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ* IN THE DISTRICT COURT
*
* 299 JUDICIAL DISTRICT
*
* TRAVIS COUNTY, TEXAS
*PETITIONER'S SUPPORTING AFFIDAVIT

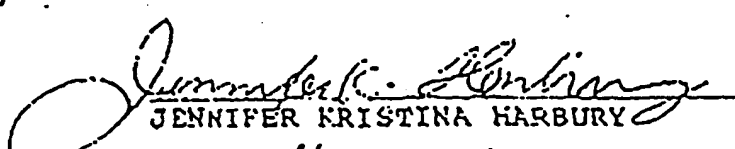
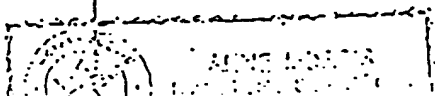
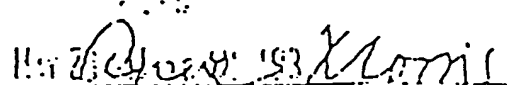
STATE OF TEXAS

BEFORE ME, the undersigned authority, personally appeared
JENNIFER KRISTINA HARBURY, who, by me duly sworn, deposed as
follows:

"My name is Jennifer Kristina Harbury. I am of sound mind
and capable of making this affidavit. I am personally
acquainted with the facts herein stated, which are true.

"I am the Petitioner in the above-entitled and -numbered
cause.

"The residence of EFRAIN BAMACA VELASQUEZ, a party to such
cause, is unknown to Petitioner. Petitioner has exercised due
diligence to locate the whereabouts of this party and has been
unable to do so."

SIGNED on May 21, 1993.

JENNIFER KRISTINA HARBURY
SIGNED under oath before me on May 21, 1993.

Notary Public, State of Texas

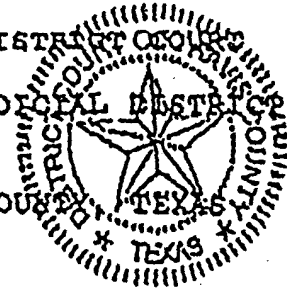
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No. 93-06259

IN THE MATTER OF THE
MARRIAGE OF

JENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ

* IN THE DISTRICT COURT OF
* 297 JUDICIAL DISTRICT
* TRAVIS COUNTY
* TEXAS



MOTION FOR SUBSTITUTED SERVICE
OTHER THAN PUBLICATION.

TO THE HONORABLE JUDGE OF SAID COURT:

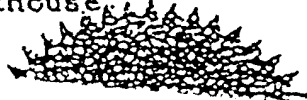
JENNIFER KRISTINA HARBURY, Petitioner in the above-entitled and -numbered cause, makes this motion pursuant to TEX. R. CIV. PROC. 109a, thereby requesting the Court to prescribe a different method of substituted service, and as grounds therefor, shows the following:

I.

Service of citation by publication as to the Respondent EFRAN BAMACA VELASQUEZ is authorized by the provisions of TEX. R. CIV. PROC. 109. In accordance with said rule, Petitioner has filed her affidavit for citation by publication, a true copy of which is attached hereto and incorporated herein by reference as if fully copied and set forth at length.

II.

A method of service that is as likely as publication to give said Respondent actual notice of the suit is by posting at the Travis County Courthouse.



WHEREFORE, Petitioner requests that the Court prescribe such different method of service, finding that such method is as likely as publication to give Respondent actual notice of this case.

Respectfully submitted,



Brian East
State Bar No. 06360800
EAST & MARTINEZ, P.C.
1405 West 6th Street
Austin, Texas 78703
(512) 474-6882
FAX (512) 474-4667

ATTORNEY FOR PETITIONER

LETTER RECEIVED BY THE CLERK
OF TARRANT COUNTY, TEXAS, ON
MAY 17, 2007. THE PETITIONER
HAS REQUESTED THAT THE COURT
ORDER THAT THE PETITIONER
BE SERVED BY PUBLICATION.
THE COURT HAS ORDERED THAT
THE PETITIONER BE SERVED BY
PUBLICATION.



FILED
MAY 17 2007
CLERK OF TARRANT COUNTY, TEXAS
BY [Signature]
OFFICE

Cause No. 9306259

CITATION BY PROCESS
THE STATE OF TEXAS

P. 26

TO: EFRAIN SAMACA VELASQUEZ

and to all whom it may concern

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not appear with the clerk who issued this citation by 10:00 A. M. on the Monday next following the expiration of twenty days after service of this citation and petition, a default judgment may be taken against you.

YOU ARE HEREBY COMMANDED to appear and answer before the Honorable District Court, 28th Judicial District, Travis County, Texas, at the Courthouse of said County in Austin, Texas, at or before 10 o'clock A.M. of the Monday next after expiration of twenty days from the date of service of this citation, then and there to answer the ORIGINAL PETITION filed in said court on the 28th day of MAY, 1993, and said suit being number 9306259 on the docket of said Court, and entitled "In the Matter of the Marriage of JENNIFER KRISTINA HARBURY AND EFRAIN SAMACA VELASQUEZ".

The nature of said suit is a request to declare valid the marriage of Jennifer Kristina Harbury and Efrain Samaca Velasquez.

Witness my hand and the seal of said court at Austin, Texas, this 28th day of May, 1993.

REQUESTED BY:

ERIK RAST

1405 W 4th Street

AUSTIN, TEXAS 78701

512/471-6667

AMALIA RODRIGUEZ-MENDOZA

Travis County District Clerk

1405 W 4th St., P. O. Box 1768

AUSTIN, TEXAS 78768



Amalia Rodriguez-Mendoza
Deputy

RETURN

Came to hand on the 28 day of MAY 1993 at 3:57 o'clock P.M., and executed by posting the same at the Courthouse door in Travis County for seven (7) days beginning on the 28 day of MAY 1993.

Service Fees:

Printer Fees:

Sworn to and subscribed before me this

the day of

NOTARY PUBLIC, THE STATE OF TEXAS

BRUCE ELFANT

CONSTABLE PRECINCT 5 TRAVIS COUNTY, TEXAS

SHERIFF/CONSTABLE/NOTARY PUBLIC

BY:

Carol Lake
CAROL LAKE

PRINTED NAME OF SERVOR

TRAVIS

County, Texas

9306259-001

Constable Precinct 5

CONSTABLE

53 JUN 7 PM 2:03

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ENTERED

RODRIGUEZ-MENDOZA, District Clerk
County, Texas, do hereby certify
is a true and correct copy of

appears of record in my office. Witness

my seal of office on

the day of

AMALIA RODRIGUEZ-MENDOZA

DISTRICT CLERK

BY

DEPUTY

RECEIVED
1993 MAY 28 PM 3:57
CONSTABLE PRECINCT 5
TRAVIS COUNTY, TEXAS

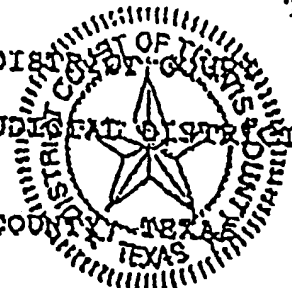
NO. 93-06259IN THE MATTER OF THE
MARRIAGE OFJENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ*
*
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*

IN THE DISTRICT OF TRAVIS COUNTY

299

JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

ORDER FOR SERVICE IN LIEU OF PUBLICATION

On this day came on to be considered the motion of Jennifer Kristina Harbury, Petitioner in the above-entitled and -numbered cause, for service of citation by a method of substituted service different from publication. Having heard and considered said motion, the Court is of the opinion that its grounds are true and correct, that citation by publication is authorized as to Efrain Bamaca Velasquez, and that the method of service prescribed herein would be as likely as publication to give said Respondent actual notice of the suit.

IT IS, ACCORDINGLY, ORDERED that service upon Efrain Bamaca Velasquez be effected by posting the citation, with a true copy of the Original Petition for Declaratory Judgment attached, at the Travis County Courthouse in Austin, Texas. Service shall be effective on the date posted.

DATED: May 28, 1993

 JUDGE PRESIDING

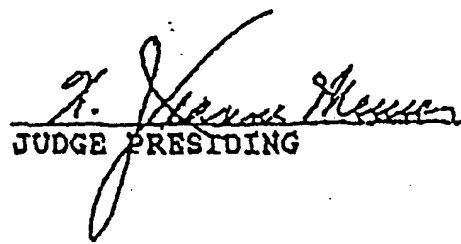
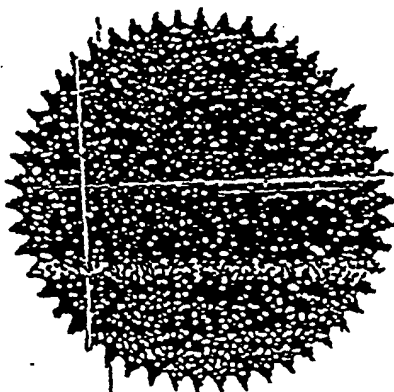
JA RODRIGUEZ ALONSO
 his Court 7. Texas do hereby certify
 as is a true and correct copy of
 the original of the same
 appears on the return of the undersigned
 and signed at Austin, Texas

9

NO. 93-06259

IN THE MATTER OF THE
MARRIAGE OFJENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ* IN THE DISTRICT COURT
*
* 299th JUDICIAL DISTRICT
*
* TEXAS
* TRAVIS COUNTY, TEXASAPPOINTMENT OF ATTORNEY AD LITEM

The court finds that the Respondent EFRAIN BAMACA VELASQUEZ, who is a party herein, has been cited by posting and that no answer has been filed and no appearance has been entered by such party within the prescribed time. The Court appoints Thomas L. Kolker, a licensed attorney at law of this state, to defend the suit on behalf of the party.


 JUDGE PRESIDING


LAMARIA RODRIGUEZ-MENDOZA, Clerk
of Travis County, Texas, do hereby certify
that this is a true and correct copy of
the original as the same appears on file in
my office and that it is a true and correct
copy of the original as the same appears on
file in my office.



LAMARIA RODRIGUEZ-MENDOZA
CLERK
DEPUTY

IN THE MATTER OF THE
MARRIAGE OF

JENNIFER KRISTINA HARBURY
AND
EFRAIN BAMACA VELASQUEZ

IN THE DISTRICT COURT
299th DISTRICT
TRAVIS COUNTY, TEXAS

DECLARATION AND REGISTRATION OF MARRIAGE,
TRAVIS COUNTY, TEXAS, U.S.A.

On this date came on to be heard the Original Petition for Declaratory Judgment Regarding Marriage in the above-entitled and -numbered cause, and having heard the evidence and argument of counsel, the Court is of the opinion that the petition should be and hereby is,

GRANTED.

IT IS ORDERED, ADJUDGED, AND DECREED that JENNIFER KRISTINA HARBURY, Social Security Number 547-90-9330, born October 27, 1951 in Baltimore, Maryland, U.S.A., and EFRAIN BAKACA VELASQUEZ, born June 18, 1957 at Finca El Tablero, El Tumbador, San Marcos, Guatemala, were legally married to each other under the laws of the State of Texas on September 25, 1991.

DATE: June 22, 1993

JUDGE/PRESIDING

I, AMALIA RODRIGUEZ-MENDOZA, District Clerk
of Travis County, Texas, do hereby certify
that this is a true and correct copy of
the original.

2553000 4074150 1360000

2 of 2

WIFE
Title 1

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ENTERING MARRIAGE RELATIONSHIP
Ch. 1

§ 1.91

(2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) A proceeding in which a marriage is to be proved under this section must be commenced not later than one year after the date on which the relationship ended or not later than one year after September 1, 1989, whichever is later.

Acts 1969, 61st Leg., p. 2707, ch. 888, § 1, eff. Jan. 1, 1970. Amended by Acts 1989, 71st Leg., ch. 369, § 9, eff. Sept. 1, 1989.

Historical and Statutory Notes

The 1989 amendment, in subsec. (b), substituted "A" for "in any" and "this section must be commenced not later than one year after the date on which the relationship ended or not later than one year after September 1, 1989, whichever is later" for "Subsection (a)(2) of this section, the agreement of the parties to marry may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married".

Section 10(b) of the 1989 amendment provides:

(b) This Act applies only to a suit filed after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect at the time the suit was filed, and that law is continued in effect for that purpose."

Cross References

Agreements in consideration of marriage, statute of frauds, see V.T.C.A. Bus. & C. § 24.01.
Presumption of validity of marriage, see § 2.01.
State policy, see § 2.01.
Wrongful death actions, admissibility of evidence of common-law marriage, see V.T.C.A. Civil Practice & Remedies Code, § 71.009.

Law Review Commentaries

Annual survey of Texas law: Family law—Husband and wife. Joseph W. McKnight, 34 Southwestern L.J. (Tex.) 115 (1980); 35 Southwestern L.J. (Tex.) 93 (1981); 36 Southwestern L.J. (Tex.) 97 (1982).
Common law marriage under the Family Code. 8 Houston L.Rev. 196 (1970).

Library References

Marriage — 13, 20(1), 21, 22.
WESTLAW Topic No. 253.
C.J.S. Marriage §§ 6, 18, 19, 21, 22.

Notes of Decisions

Admissibility of evidence	Agreement—Cont'd
Generally 37	Prior marriage 8
Agreement 9	Sufficiency of evidence 10
Representation or holding out to others 16	Burden of proof 34
Age requirements 24	Capacity to marry 21
Agreement 4-10	Ceremonial marriage, presumptions 31
In general 4	Circumstantial evidence 35
Admissibility of evidence 9	Cohabitation 11, 12
Conditional agreement 6	In general 11
Implied or inferred 5	Sufficiency of evidence 12
Present intent 7	Conditional agreement 6
	Conduct or actions of parties, generally 35

the county clerk shall issue a duplicate marriage license completed with information as contained in the records.

(b) On the application and proof of identity of both persons to whom a marriage license was issued but not recorded as required by Section 1.85 of this code, the county clerk shall issue a duplicate license if each person applying submits to the clerk an affidavit stating:

(1) that the persons in whom the original license was issued were married to each other by a person authorized to conduct marriage ceremonies before the expiration date of the original license;

(2) the name of the person who conducted the ceremony; and

(3) the date on which the marriage ceremony occurred.

Added by Acts 1975, 64th Leg., p. 621, ch. 254, § 2, eff. Sept. 1, 1975.

Law Review Commentaries

Husband and wife. Joseph W. McKnight, 8
Texas Tech L. Rev. 7 (1976).

Library References

Marriage § 25(4).
WESTLAW Topic No. 251.
C.I.S. Marriage § 75

[Sections 1.87 to 1.90 reserved for expansion]

SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

§ 1.91. Proof of Certain Informal Marriages

(a) In any judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

(1) a declaration of their marriage has been executed under Section 1.92 of this code; or

AND AND WIFE Title I

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ENTERING MARRIAGE RELATIONSHIP Ch. I

Judgment. O'Benar v. O'Benar (Civ.App. 1966)
410 S.W.2d 214, error dismissed.

In absence of proper challenge of the suffi-
ciency of evidence to support determination by
trial court on issues concerning existence of
common-law marriage, for purposes of deter-
mining ownership of certain parcels of land,
question whether common-law marriage exist-
ed between a certain man and woman was not
before Court of Civil Appeals on appeal. Fay-
lie v. Williams (Civ.App. 1978) 569 S.W.2d 557,
ref. n.r.e.

Existence of agreement to be married, either
express or implied, for purposes of determina-
tion whether man and woman had entered
common-law marriage, as well as issue of
cohabitation and common reputation are

questions of fact, determination of
review, if properly presented, become
sive in Court of Civil Appeals under
S, § 6, and Vernon's Ann.Civ.St. 2
Fagile v. Williams (Civ.App. 1978) 56
557, ref. n.r.e.

Under the "no evidence" standard
evidence was clearly sufficient to un-
derlie court's finding of common-law
in action for appointment of exec-
determination of heirship; record
testimony supporting the finding not
deceased's alleged common-law wife,
from deceased's father and other lay
Cain v. Whitlock (App. 14 Dist.
S.W.2d 528.

§ 1.92 Declaration and Registration

(a) A declaration of informal marriage shall be executed on a form
scribed by the Bureau of Vital Statistics of the State Department of
and provided by the county clerk. Each party to the declaration shall
the information required in the form.

(b) The declaration form shall contain:

(1) a heading entitled "Declaration and Registration of Informal
riage, _____ County, Texas";

(2) spaces for each party's full name (including the woman's
surname), address, date of birth, place of birth (including city, count-
state), and social security number, if any;

(3) a space for indicating the date of document tendered by each party
proof of age and identity;

(4) printed boxes for each party to check "true" or "false" in response
the following statement: "The _____ party is not related to me as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or by adoption;

(C) a parent's brother or sister of the whole or half blood; or

(D) a son or daughter of a brother or sister of the whole or half
or by adoption."

(5) a printed declaration and oath reading: "I SOLEMNLY SWEAR
AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO EACH
OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE)
WE AGREED TO BE MARRIED AND AFTER THAT DATE WE LIVED
TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE RE-
SENTED TO OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF
MARRIAGE TO THE OTHER PARTY I HAVE NOT BEEN MARRIED
ANY OTHER PERSON. THIS DECLARATION IS TRUE AND THE IN-
FORMATION IN IT WHICH I HAVE GIVEN IS CORRECT."

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§ 1.92

HUSBAND AND WIFE
Title 1

(6) spaces immediately below the printed declaration and oath for the parties' signatures; and

(7) a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.

(c) If either party is underage at the time of filing a declaration, the declaration shall have attached an acknowledgment consent executed by a parent of each underage person.

Acts 1969, 61st Leg., p. 2707, ch. 888, § 1, eff. Jan. 1, 1970. Amended by Acts 1971, 62nd Leg., p. 2508, ch. 826, § 2, eff. June 9, 1971; Acts 1973, 63rd Leg., p. 1601, ch. 577, § 9, eff. Jan. 1, 1974; Acts 1987, 70th Leg., ch. 221, § 1, eff. Sept. 1, 1987.

Historical and Statutory Notes

The 1971 amendment added the provisions now appearing as subsec. (c) and designated as subsecs. (d), (e) and (f) the provisions previously appearing as subsecs. (c), (d) and (e).

The 1973 amendment, in the second sentence of subsec. (a), substituted "required" for "for which spaces are provided"; in subd. (b)(2), substituted "social security number, if any" for "race"; substituted subds. (b)(3) to (5) for former subds. (b)(3), (4), which read:

"(3) a printed declaration reading: 'We, the undersigned declare that we are married to each other by virtue of the following facts: On or about (date) we agreed to be married, and after that date we lived together in this state as husband and wife and in this state represented to others that we were married';

"(4) a printed oath reading: 'I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE DECLARATION IS TRUE, THAT THE INFORMATION I HAVE GIVEN HEREIN IS CORRECT, THAT I AM NOT PRESENTLY MARRIED TO ANY OTHER PERSON, AND THAT I AM NOT RELATED TO THE OTHER PARTY TO THE DECLARATION WITHIN THE DEGREES PROHIBITED BY LAW.'"

In previous subds. (b)(6), (7), the 1973 amendment inserted "declaration and"; in subd. (b)(7), substituted "parties" for "applicant"; in subsec. (c) inserted "was underage, as provided in Section 11 of this code, at the time of the marriage" after "If either party"; inserted "and" before "underage at the time"; substituted "a parent" for "the parents"; substituted subds. (d) to (f), which read:

"(d) The county clerk shall:

"(1) determine that all necessary information is on the form;

"(2) administer the oath to each party;

"(3) have each party sign the declaration in his presence; and

"(4) execute his certificate on the declaration.

"(e) The county clerk shall record the declaration, deliver the original of the declaration to the parties, and transmit a copy to the Bureau of Vital Statistics.

"(f) A declaration executed under this section is prima facie evidence of the marriage."

The 1987 amendment in subd. (b)(4) added par. (D).

Cross References

Administration of vital statistics records, see V.T.C.A. Health & Safety Code, § 191.001 et seq.
Annulment of marriage where consent not obtained under this section, see § 2.41(b).
County clerk, duties, see V.T.C.A. Government Code, § 51.40.
Fee for services rendered in connection with execution of a declaration under this section, see V.T.C.A. Local Government Code, §§ 118.011, 118.019.
Parent defined, see §§ 11.01(3), 51.02(2).
Parental consent, see § 1.52.

Law Review Commentaries

Common law marriage under the Family Code. 8 Houston L.Rev. 106 (1970).

ND AND WIFE
Title 1.

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p. 1601, ch. 577,
1987.

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of the marriage."
subd. (b)(4) added

2 § 191.001 et seq.
1241(b).

for this section, see

ENTERING MARRIAGE RELATIONSHIP
Ch. 1

Library References

Marriage 21.
WESTLAW Topic No. 253.
C.J.S. Marriage § 21.

Notes of Decisions

In general 1
Age of parties 2

1. In general

Neither county clerks, nor their deputies,
had discretion to refuse to perform the duties
set forth in former subsecs. (c), (d) of this
section, where all information required to be
given on the form was furnished. Op. Att'y
Gen. 1970, No. M-37A.

2. Age of parties

Males under 19 years of age, and females under 18 years of age, but over 14 years of age, whether or not they have parental consent, may execute a declaration of informal marriage pursuant to provisions of § 1.91 and this section. Op. Att'y Gen. 1969, No. M-502.

Males under 16 years of age and females under 14 years of age may not execute a declaration of informal marriage pursuant to provisions of § 1.91 and this section. Op. Att'y Gen. 1969, No. M-502.

§ 1.93. Proof of Identity and Age

The county clerk shall require proof of the identity and age of each party to the declaration to be established by a certified copy of the party's certificate or by some certificate, license, or document issued by this state, another state, the United States, or a foreign government.

Added by Acts 1973, 63rd Leg., p. 1601, ch. 577, § 10, eff. Jan. 1, 1974.

Cross References

Marriage license, proof of identity and age. - § 1.04.

Library References

Marriage 21.
WESTLAW Topic No. 253.
C.J.S. Marriage § 21.

§ 1.94. Recording of Declaration

(a) The county clerk shall:

- (1) determine that all necessary information is entered in the declaration form and that all necessary documents are submitted to him;
- (2) administer the oath to each party to the declaration;
- (3) have each party sign the declaration in his presence; and
- (4) execute his certificate to the declaration.

(b) The county clerk may not certify or record the declaration if:

- (1) either party fails to supply any information, or to provide any document, required by this subchapter;
- (2) either party is under 16 years of age and waiver of the age requirement has not been ordered; or

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§ 1.94

HUSBAND AND WIFE
Title 1

(3) either party checks "false" in response to the statement of relationship to the other party.

(c) On execution of the declaration, the county clerk shall record the declaration and all documents submitted with the declaration or note a summary of them on the declaration form, deliver the original of the declaration to the parties, and send a copy to the Bureau of Vital Statistics.

(d) A declaration recorded as provided in this section is prima facie evidence of the marriage of the parties.

(e) At the time the parties execute the declaration, the clerk shall distribute to each party printed materials about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The clerk shall note on the declaration that the distribution was made. The materials shall be prepared and provided to the clerk by the Texas Department of Health and shall be designed to inform the parties about:

(1) the incidence and mode of transmission of AIDS and HIV;

(2) the local availability of medical procedures, including voluntary testing, designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(3) available and appropriate counseling services regarding AIDS and HIV infection.

Added by Acts 1973, 63rd Leg., p. 1601, ch. 577, § 10, eff. Jan. 1, 1974. Amended by Acts 1989, 71st Leg., ch. 1195, § 4(a), eff. Sept. 1, 1989.

Historical and Statutory Notes

The 1989 amendment added subsec. (e).

Section 4(b) of the 1989 amendatory act provides:

"The Texas Department of Health shall prepare and distribute to county clerks the informational materials described by this Act as

soon as possible after the effective date of this Act, but not later than January 1, 1990. A county clerk is not required to make the notations on declarations of formal marriage described by Subsection (e). Section 1.94, Family Code, as added by this Act before January 1, 1990."

Cross References

Administration of vital statistics records, see V.T.C.A. Health & Safety Code, § 191.001 et seq.
County clerk, duties, see V.T.C.A. Government Code, § 51.402.

Library References

Marriage 4032.
WESTLAW Topic No. 253.
C.J.S. Marriage § 33.

Historical and Statutory Notes

Prior Laws:

P.D. 4667.
Rev.Civ.St.1879, art. 2841.
Rev.Civ.St.1895, art. 2957.
Rev.Civ.St.1911, art. 4611.

Acts 1911, 32nd Leg., p. 63.
Rev.Civ.St.1925, art. 4605.
Acts 1959, 56th Leg., 2nd C.S., p. 11
§ 1.
Acts 1963, 59th Leg., p. 1151, ch.
Vernon's Ann.Civ.St. art. 4605, sub

Cross References

Absent applicant, proof of identity and age under this section, see § 1.05(b)(2).
Application for license, proof of identity and age under this section, see § 1.02(2)(A).
Marriage without formalities, proof of identity and age, see § 1.93.

Library References

Marriage § 25(4).
WESTLAW Topic No. 253.
C.J.S. Marriage § 25.

Notes of Decisions

Affidavits 2
Authority to issue license 1
Court ordered waiver 3

attesting to age of parties did not re-
marriage voidable or invalid in any
Williams v. White (Civ.App.1954) 26
666, ref. n.r.c.

1. Authority to issue license

A county clerk had no authority to issue
marriage license where male was under age of
16 or female was under age of 14 even though
provisions of Vernon's Ann.Civ.St. art. 4605
(repealed) had been complied with. Op.Atty.
Gen.1942, No. 0-4860.

3. Court ordered waiver

A county clerk is neither obligated
nor permitted to accept a court ordered waiver
furnishing of the information concerning
identification of the applicant or identity
of the parent required on the marriage
application. Op.Atty.Gen.1975, No. 1

2. Affidavits

Under Vernon's Ann.Civ.St. art. 4605 (re-
pealed), a false affidavit executed by husband

§ 1.05 Absent Applicant

(a) If only one of the applicants is able to appear personally before
county clerk to apply for a marriage license, any adult person or other
applicant may apply on behalf of the absent applicant.

(b) The person applying on behalf of an absent applicant shall provide
the clerk:

(1) the affidavit of the absent applicant as prescribed by Subsection
this section;

(2) proof of the identity and age of the absent applicant as prescribed
Section 1.04 of this code; and

THIS APPLIES TO CEREMONIAL
MARRIAGES ONLY

H AND WIFE
Title 1

ENTERING MARRIAGE RELATIONSHIP
Ch. 1

(3) If required, the document establishing parental consent establishing that a prior marriage has been dissolved, or a copy of the absent applicant as prescribed by Subchapter C of this chapter;
(c) The affidavit of an absent applicant must include:

(1) the absent applicant's full name (including the maiden name, if applicable), address, date of birth, place of birth (including city and state), citizenship, and social security number, if any;

(2) a declaration that the absent applicant has not been divorced within the last 30 days;

(3) a declaration that the absent applicant is not presently married to the other applicant or they wish to marry again;

(4) a declaration that the absent applicant is not related to the other applicant as:

(A) an ancestor or descendant, by blood or adoption;

(B) a brother or sister, of the whole or half blood or

(C) a parent's brother or sister of the whole or half blood;

(D) a son or daughter of a brother or sister of the whole or half blood or by adoption;

(5) a declaration that the absent applicant desires to marry the other applicant, and address of the person to whom the absent applicant is to be married;

(6) the approximate date on which the marriage is to occur;

(7) the reason the absent applicant is unable to appear personally before the county clerk for the issuance of the license; and

(8) if the absent applicant will be unable to attend the ceremony, the appointment of any adult, except the other applicant, to act as proxy for the absent applicant, to act as

purpose of participating in the ceremony.
Acts 1969, 61st Leg., p. 2707, ch. 888, § 1, eff. Jan. 1, 1970. Amended by Acts 1973, 63rd Leg., p. 1598, ch. 577, § 4, eff. Jan. 1, 1974; Acts 1975, 64th Leg., p. 1, eff. Sept. 1, 1975; Acts 1987, 70th Leg., ch. 195, § 2, eff. Sept. 1, 1987; Acts 1991, 70th Leg., ch. 221, § 3, eff. Sept. 1, 1991.

Historical and Statutory Notes

The 1973 amendment rewrote this section, which prior thereto read:

"Certain Information or Formalities May be Omitted"

"Any information pertaining to an applicant, other than the applicant's name, may be omitted from the application, and any formality required by Subchapters A, B, and D of this chapter may be waived on the county judge's written order, issued for good cause shown, and submitted to the county clerk at the time the application is made."

The 1975 amendment inserted (c)(2) and renumbered former (7) as (c)(3) to (8).

Acts 1987, 70th Leg., ch. 195, § 2, inserted (b)(4), inserted "document establishing that a prior marriage has been dissolved."

Acts 1987, 70th Leg., ch. 221, § 3, which inserted (b)(4), inserted "document establishing that a prior marriage has been dissolved" and renumbered former subd. (4) as (b)(4) added par. (D).

2-
7- PLS retain
F.I.

ROBERT J. GIBSON & ASSOCIATES

ATTORNEYS AT LAW
3017 BRAZOS STREET
HOUSTON, TEXAS 77006

(713) 580-7117

12-1- 1994

IN RE: JENNIFER HARBURY
AND
EPHRIAM BAMACA

TO WHOM IT MAY CONCERN:

A search was made of Travis County, Texas, U.S.A., marriage, and Declaration and Registration of common law marriages, on November 30, 1994 by this writer.

Travis county has not computerized these records before December, 1992. The search reviewed the computer listings since that time and the manually executed records before that time for the dates hereafter listed. They were checked under both the male name and the female name.

The ledgers each covered the following dates:

1983 through 1985

Fall of 1985 through Spring of 1987

Spring of 1987 through Winter of 1988

End of 1988 through Summer of 1990

Summer of 1990 through April of 1992

March of 1992 through November of 1992

Computer listings from December of 1992 until November 28, 1994.

The ledger covering the relevant date of September 25, 1991 was double checked by an employee of the Travis County Clerks office.

In none of the above records appeared any record of either of the referenced parties having been married in Travis County, Texas, U.S.A., so far as could be discerned.

There is also a record kept in Travis County of filings of "Domestic Partners". These are apparently set up in keeping with local ordinances allowing homosexuals, etc., to file as partners and such unions do not constitute a marriage. Therefore, I did not search these records.

14

There is a provision for an "absent applicant" to obtain a "marriage license". (this is for a ceremonial marriage as opposed to a common law marriage). I enclose a copy of that statute.

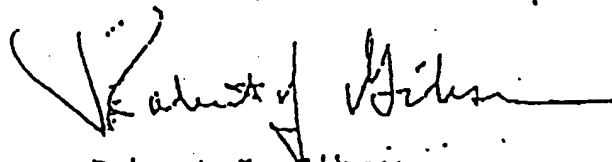
I also enclose a copy of the statute authorizing a common law marriage, or as the statute entitles it, an "Informal Marriage".

I also enclose a copy of the statute authorizing the filing of such an informal marriage. You will note in Sec 1.92, number (5) a requirement is that the couple satisfy the requirements of an informal marriage " in this state". This would, or might be, because other jurisdictions do not recognize or authorize such " common law" marriages. Therefore the couple would have to satisfy the requirements of Sec. 1.91 within the State of Texas(mutually) and any absentee compliance might be unsatisfactory.

You will also note that in Sec. 1.94 the statute requires that the Clerk "have each party sign the declaration in his presence" and execute his certificate to the declaration

I find no statute providing an "absentee" appearance for a declaration of an informal marriage.

We trust this information might be of some value to you in your besiged condition.



Robert J. Gibson
Attorney at Law